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THE
FATAL CONSEQUENCES
OF
ADULTERY.

THE
FATAL CONSEQUENCES

A D U L T E R Y

To Merchants, as well as to the Public

A WARNING

A Defence of the Bill, passed in the House
of Lords in the Year 1791.

FATAL CONSEQUENCES



A D U L T E R Y

AND A WARNING

BY THOMAS BOWEN, A.M.

L O N D O N

Printed and sold by T. BOWEN, at the
Gate Hill, and by T. BOWEN, No. 10. in
St. Paul's Church-yard.

THE
FATAL CONSEQUENCES
OF
ADULTERY,
TO MONARCHIES as well as to PRIVATE
FAMILIES :

WITH
A DEFENCE of the BILL, passed in the House
of Lords in the Year 1771,

INTITULED,

“ An Act to restrain Persons who shall be
“ divorced for the Crime of ADULTERY,
“ from marrying, or contracting Matri-
“ mony, with the Party,” &c.

AND AN
HISTORICAL ACCOUNT
OF
MARRIAGE, &c. 16

By THOMAS POLLEN, A.M.

L O N D O N :

Printed for and sold by the AUTHOR, No. 42, on Dew-
gate Hill; and by T. LOWNDES, No. 77, in Fleet-
Street. 1772.

THE
MUSEUM
OF
ANTHROPOLOGY
AND
ETHNOLOGY
OF
THE
SMITHSONIAN INSTITUTION
CONTENTS



On the
Smithsonian Institution
Washington

On the
Smithsonian Institution
Washington

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INTRO-

INTRODUCTION.

GOVERNMENT was intended for the preservation of mankind in general, and for the protection of individuals. For this purpose laws were made; and enforced by the sanction of rewards and punishments: the first being designed for the encouragement of virtue, the last for the subversion of vice. While these two objects are kept in view, the great ends of government first mentioned will be obtained.

But how it has happened I can-

not say, yet so it is, that virtue has not received encouragement proportionate to its value. In later days, it has either been suppressed by a vicious minister; or crushed by a restless faction; or undermined by the malevolent jester. So that it has been left to the bare comfort of being its own reward.

And as virtue has drooped, so vice has reared its head. This affords us but a melancholy prospect: since we see by the light of history, that the decrease of kingdoms is in proportion to the increase of vice. Where luxury has gained ground; there effeminacy has done the same: and fortitude, the

the bulwark of a country, is become a stranger to it. Where avarice has prevailed, there the poor are made the slaves of the rich, and the balance of a free state is destroyed.——Where profusion has been the fashion of the times, there rapaciousness starts up, and extorts money, not to accumulate but to squander.—Where lasciviousness reigns, there flows in a torrent of debauchery, to the distraction of private families, and to the insult of public laws.

No empire can stand long under the loss of virtue, and nothing can secure a nation but the recovery

very of it. Nothing but some great affliction can possibly make them regain their senses, which may serve to terrify them into the right path of decency and honour.

Let us look into the amiable conduct of the two first personages of this kingdom. They have set an illustrious pattern of domestic happiness in a life of virtue. But though virtue may be justly esteemed one of the brightest jewels of a crown, yet it has not influence sufficient to expel the poison of private vices: which must in time produce public calamities. We shall bring instances enough to prove this assertion

sertion in the following sheets. In order to which, it is my design to make Adultery, one of these vices so prevalent among us, the chief topic of them. But I shall first speak of Marriage, whereof it is an abuse: that I may the better illustrate how great this abuse of it is.

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ter illustrate how great this abuse
of it is.

A N
HISTORICAL ACCOUNT, &c.

C H A P. I.
O N M A R R I A G E.

SECTION I.

Its beginning.

WHEN the all-wise Creator made this lower world, he provided for the continuance of its several parts in their kinds, till it should be his good pleasure to put an end to the whole. This is most observable in respect to all kinds of living creatures. But as the Offspring
B of

of mankind requires a longer and greater care in bringing up than the Offspring of any other living creatures, so he intended a stricter and a more lasting union between the Parents.

SECTION II.

Its nature.

THIS union is in our tongue styled *Marriage*: and is not only the first, but the most perfect union that can be formed among men. For if the union between a man and his father is by nature very great, that between a man and his wife is still greater: because

because they become united not only by nature but also by compact and interest.

Some have refin'd upon this union between man and wife, as if it were in a manner to continue after death : for which reason they have disapprov'd of a second marriage. This sentiment prevailed very early in the world, according to Virgil, who brings in Dido making the following declaration ;

* “ But first let yawning earth a passage rend,
And let me through the dark abyfs descend ;

First

* Sed mihi vel tellus optem prius ima dehiscat ;
Vel pater omnipotens adigat me fulmine ad umbras,

First let avenging Jove with flames from high,
Drive down this body to the nether sky,
Condemn'd with Ghosts in endless night to
lie ;

Before I break the plighted faith I gave.
No ; he who had my vows, shall ever have ;
For whom I lov'd on earth, I worship in the
grave."

Dryden's VIRG.

* Thus too Valeria, a sister of
the

Pallentes umbras Erebi, noctemque profundam ;
Ante, Pudor, quam te violò, aut tua jura resolvo.
Ille meos, primus qui me sibi junxit, amores
Abstulit ; ille habeat secum, servetque sepulchro.

VIRG. Æneid. l. iv. v. 24.

* Erasmi. Apoth. viii. 19. Valeria,
Messalarum soror, rogata, *Cur amisso*
Servio,

the Messalæ, being asked, *Why, having lost Servius, she would not marry another?* answer'd, *Because my husband, Servius, always lives to me.*

* Again the younger Portia, when a certain woman was commended in her presence as a person of good morals, who yet had married twice, said, *A matron who is happy and chaste, marries but once.*

Among

Servio, nulli vellet nubere? Quoniam, inquit, mihi semper vivit maritus Servius.

* Erasm. Apoth. viii. Portia Minor,

* Among the Romans, women, who had been content with one marriage, were presented with the crown of Chastity. For they judged, That woman's mind was chaste,

nor, quum laudaretur apud eam mulier quædam ut bene morata, quæ tamen iterârat matrimonium, *Felix*, inquit, *ac pudica matrona non nubit nisi semel.*

* Val. Max. ii. c. i. § 3. Quæ uno contentæ matrimonio fuerant, coronâ pudicitæ honorabantur: Existimabant enim eum præcipue matronæ sincera fide incorruptum esse animum, qui post depositæ virginitatis cubile in publicum egredi nesciret; multorum matrimoniorum experientiam quasi illegitimæ cujusdam intemperantiæ signum esse credentes.

which

which, after the first marriage wherein she quitted her virgin-state, could not bear to come forth to a second: they looking upon the practice of several marriages to be as it were a mark of a certain lawless incontinence.

Tacitus giving an account of the manners of the ancient Germans, observes that * Those cities flourish

* Tac. Germ. c. xix. Melius—civitates, in quibus tantum virgines nubunt, et cum spe votoque uxoris semel transigitur. Sic unum accipiunt maritum, quomodo unum corpus, unamque vitam, ne ulla cogitatio ultra, ne longior cupiditas, ne tanquam

rish best where only Virgins marry; and where a wife's hope and wish is over once for all. So they take one husband, as one body and one life; lest there be any thought beyond, any longer desire, and lest they may not love the husband, but the marriage.

This delicacy, in regard to a second marriage, may be very commendable in general: but it will not hold good in all cases. For if a young woman marry because she has not the gift of continency, and the marriage be soon dissolved by

maritum, sed tanquam matrimonium
ament.

death

death or otherwise ; the reason may be as strong for a second marriage as for the first—Again, if through the sword, or famine, or pestilence, a country become weak, she seems in a manner obliged, without a sufficient reason to the contrary, by a re-marriage, to contribute towards the repeopling of it.—And again, if a distressed widow should have an offer made her of marrying a man, who might put her in easy circumstances, she would not surely be to blame if she embraced such an offer. For when Portia said, *A matron who is happy, marries but once* ; she tacitly acknowledged, That were that ma-

tron unhappy, she might then marry twice.

SECTION III.

Its progress.

MARRIAGE, *being instituted of God in the time of man's innocency*, was delivered down by his Church to future ages. And though in process of time there arose a generation after them, which *knew not the Lord*, yet this institution was found even with them. We are told indeed, that in the Region, afterward called Attica, the Sexes coupled promiscuously like

like the beasts of the field: but we are told again, that Cecrops the first king of the Athenians, among other wise regulations, made this of marriage, according to Nonnus;

* Cadmus invented letters, Solon laws,
And Cecrops marriage-bonds.

For the people of Attica were then in a depraved state; and Cecrops undertook to make them live, not like beasts, but like men.

* Καδμος ἑυλῶσσοιο διδασκεται ὄργανα φωνῆς,
Θεσμὰ Σόλων ἄχραντα, καὶ ἔννομον Ἀτθίδι πτεῦκη,
Συζυγίης ἀλύτσιοι σπινθρίδα δίζυγε Κεκροψ.

Nonn. DIONYSIC. l. lxi.

SECTION IV.

Agreeable to the law of nature.

INDEED we have a sufficient warrant to say that Marriage was, not only sanctified by the law of God, but enforc'd by the law of nature. * Cicero assures us, that " The first of all the Philosophers taught it to be ordained by nature,

† Cic. de finib. l. iv. c. 7. Primi ex omnibus Philosophis a natura tributum esse docuerunt, ut ii, qui procreati essent, a procreatoribus amarentur, et, id quod temporum ordine antiquius est, ut conjugia virorum et uxorum naturâ conjuncta esse dicerent.

that

that they who are begotten are beloved by those who beget them; and, what in the order of time is more ancient, they asserted, that the marriages of husbands and wives are formed by nature."

And this he declares as his own opinion; "* Since we may perceive that man is born for the preservation of men, it is agreeable to this nature for a wise man, that he

* Cic de fin. iii. c. 20. Cum—ad conservandos homines hominem natum esse videamus, consentaneum est huic naturæ, ut sapiens velit—ut è natura vivat, uxorem adjungere, et velle ex eâ liberos.

may live according to nature, to take a wife, and raise children of her."

But the description of the married-state, by the same Author, plainly demonstrates, that of all fellowships, it is the most suitable to the nature of man. I shall give an abstract of it only for brevity's sake.* "The union of marriage is

* Cic. Fragm. Maritale Conjugium sic comparatum est natura, ut non solum jucundissima, verum etiam utilissima vitæ societas iniretur; et ne genus humanum temporis longinquitate occideret; Propter hoc, mas cum femina

is so contriv'd by nature, that by it not only the most pleasing, but even the most useful society of life might be entered into; and that mankind should not perish through length of time. For this reason the Male is joined with the Female, and likewise, that from the same

femina est conjunctus; deinde ut ex eadem societate mortalibus adjutatoria senectutis, nec minus propugnacula preparentur. Tum etiam cum victus et cultus humanus, non uti feris in propatulo ac sylvestribus locis, sed domi sub tecto accurandus esset, necessarium fuit alterutrum foris et sub dio esse, qui labore et industria compararet, intus, qui tectis recondere atque custodiret.

society,

society, aids and supports might be prepared for Old-age. And then since meat and clothing must be provided for men, not in wildernesses, and in the open air, as for wild beasts, but at home under a roof; it was necessary that the one of the married couple, should be abroad, who by labour and industry should get what might be needful, the other within, who should hoard up, and keep under cover what was gotten."

These quotations, out of a celebrated heathen writer, ought to weigh something with those Libertines, who argue, That Marriage is not the voice of nature,

but a restraint put upon man by
Civil Policy.

SECTION V.

Its use and felicity.

A Little experience discovered
of what excellent use this
institution of marriage was to the
world. Indeed for every man to
have his own wife, and every woman
her own husband, is the best me-
thod of propagating the human
species—of ascertaining whose the
children are which are brought
forth—of improving the enjoy-
ments of life by imparting them
—of lessening its cares and sor-

rows.

rows by dividing them—of preventing men from wasting their time, health, and substance, in wild pursuits—of fixing property, and thereby maintaining peace and order in the commonwealth.

A happy marriage is certainly the highest degree of earthly felicity. The Roman Pindar intimates so much by the following lines;

*Happy, thrice happy, both the kinds,

Whom an unbroken wedlock binds ;

Whose

* Felices ter, et amplius,

Quos irrupta tenet copula, nec malis

Divulsus

Whose love unhurt by quarrels last,
Till the full time of life be past.

And our English Homer speaks thus
in its praise :

• Hail wedded love, mysterious law, true source
Of human offspring, sole propriety
In Paradise, of all things common else !
By thee adult'rous lust was driv'n from men
Among the bestial herds to range ; by thee
Founded in reason, loyal, just, and pure,
Relations dear, and all the charities
Of Father, Son, and Brother, first were known.
Far be it that I should write thee sin or blame,

Divulsus querimoniis,

Suprema citius solvet amor die.

HOR. i. Od. 13. v. 17.

Or

Or think thee unbecfitting holieft place,
 Perpetual fountain of domeftic sweets,
 Whole bed is undefil'd, and chafte pronounc'd,
 Prefent, or paft, as Saints and Patriarchs us'd.
 Here Love his golden fhafts employs, here lights
 His conftant lamp, and waves his purple wings,
 Reigns here, and revels; not in the bought fmiles
 Of Harlots, lovelefs, joylefs, unindear'd,
 Cafual fruition; nor in Court-Amours,
 Mixt dance, or wanton masks, or midnight balls,
 Or Serenate which the ftary'd Lover fings
 To his proud fair, beft quitted with difdain,

MILTON Par. Loft. b. iv. l. 750.

SECTION VI.

Its encouragement.

THE ancient lawgivers having abundantly discover'd the usefulness of marriage, gave it all proper encouragement.

* Herodotus speaks of a law
which

* Herod ; i. Νόμοι δὲ αὐτοῖσι ὧδε κατετέαται· ὁ μὲν σωφωτατος ὅδε καταγιώμην τὴν ἡμετέραν τῷ καὶ Ἰλλυριῶν πυνδάνομαι χρῆσθαι. Κατὰ κώμας ἑκάστας ἅπαξ τῷ ἔτεος ἑκάστῃ ἐποιέετο τάδε· ὥς ἂν αἱ παρδένοι γενοίατο γαμῶν ὥραϊαι, ταύτας ὅκως συναγάγοιεν πάσας.

which the Illyrian Magistrates put in practice once every year in all their towns. “ When they had gathered all the Virgins that were marriageable, they brought them together into one place. Round about them stood a company of men.

σας, ἐς ἓν χωρίον ἐσάγεσκον ἀλέας· πέ-
ριξ' δὲ αὐτὰς ἴσατο ὄμιλος ἀνδρῶν. ἀνι-
στὰς δὲ κατὰ μὴν ἐκάστην κήρυξ πωλέεσκε,
πρῶτα μὲν τὴν εὐειδεσάτην ἐκ πασέων·
μετὰ δὲ ὅπως αὐτὴ εὐρῆσα πολλὸν χρυ-
σίον πραθεῖη, ἄλλην ἀνεκήρυσε ἢ μετ'
ἐκείνην ἔσκε εὐειδεσάτη. ἐπωλέωντο δὲ
ἐπὶ συνοικήσει. ὅσοι μὲν δὴ ἔσκον εὐδαί-
μονες τῶν Βαβυλωνίων ἐπίγαμοι, ὑπερ-
βάλλοντες· ἀλλήλους ἐξωνέοντο τὰς
καλλις εὐθῆσας· ὅσοι δὲ τῷ δήμῳ ἔσκον
ἐπίγαμοι, ἑτοὶ δὲ εἰδος μὲν ἑδ' ἐν εἰδέοντο
χρησθῆ

men. Then a Cryer rose up, and expos'd to sale each Virgin one by one, but first the handsomest of them all. As soon as she was sold off at a considerable price, he put up another who was the handsomest next to her. Now they were sold for marriage. Those of

χρησῶ, οἱ δ' ἂν χρήματά τε καὶ αἰχρίονας
παρθένους ἐλάμβανον. ὥς γὰρ δὴ οἱ ἐξέλ-
θοι ὁ κήρυξ πωλέων τὰς εὐειδέστας τῶν
παρθένων ἀνίστη ἂν τὴν ἀμορφοτάτην,
ἢ εἰ τις αὐτῶν ἔμπηρος ᾗ· καὶ ταύτην
ἀνεκήρυσε, ὅτις θέλει ἐλάχιστον χρυσίον
λαβὼν, συνοικεῖν αὐτῇ· ἐς ᾧ τῷ τὸ ἐλά-
χιστον ἐπιτάμειναι προσέκειτο. τὸ δ' ἂν
χρυσίον ἐγένετο ἀπὸ τῶν εὐειδέων παρ-
θένων, καὶ ὅτω αἱ εὐμορφοὶ τὰς ἀμόρφους
καὶ ἔμπηρας ἐξελέγασσαν.

the

the Babylonians who were in happy circumstances, and of age to marry, out-bidding one another, bought up the prettiest. But whoever of the common people were of age to marry, these had no need of exquisite beauty, and therefore took both money and the homelier Virgins together. For as soon as the Cryer had done selling the Virgins who were the prettiest, he put up the ugliest, or if any one of them were blemish'd. Then he propos'd her to be married, to him who would take the least money with her : till she fell to that man who made the lowest demand. The money arose from the sale of the fairest

fairest virgins. And so the well-favour'd provided for the ill-favour'd and blemish'd.

* With the first Romans greater honour was not used to be paid to birth and fortune than to age. But after that an Offspring seemed necessary for the City, then whoever had a wife

* Aul. Gell. ii. c. 15. Apud antiquissimos Romanorum, neque generi neque pecuniæ præstantior honos tribui quam ætati solitus. Sed postquam soboles civitati necessaria visa est; tum antelati quibusdam in rebus qui uxorem quique liberos haberent senioribus neque liberos neque uxores habentibus.

C

and

and children were preferred in some things before their elders who had neither children nor wives.

Nay sometimes married men were preferred even before men in office.* “ The President of the province of Crete came to visit the
Philo-

† Aul Gell. ii. c. 2. Ad Philosophum Taurum Athenas visendi ejus gratiâ venerat Præses Cretæ provinciæ; et cum eo simul ejusdem Præsidis Pater; allata una sella est, quæ in promptu erat: atque dum aliæ promebantur, apposita est. Invitavit Taurus Patrem Præsidis ut sederet. Atque ille ait; *Sedeat hic potius, qui populi Romani Magistratus est. Absque præ-*

Philosopher Taurus at Athens, and with him the President's Father. One chair was brought that was at hand; and while others were bringing, it was drawn near. Taurus invited the President's Father to sit. He said; *Let him sit rather who is a magistrate of the Roman People. Without offence,* said Taurus, *do you sit in the mean time, while we enquire and examine, whether it be most proper that you sit, who are a Father, or your son who is a Magistrate."*

præjudicio, inquit Taurus, tu interea sede, dum inspicimus quærimusque utrum conveniat, tene potius sedere qui Pater es, an filium qui Magistratus est.

* *Quinctus Metellus Numidicus* the Censor, and afterwards *Julius*, and then *Augustus*, made a law about marrying the people, inviting them by rewards and immunities to propagate an issue; viz. to him who had three chil-

* *Alex. ab. Alex. iv. c. 8. Q. Metellus Numidicus censor, et postea Divus Julius, deinde Augustus, legem de maritandis ordinibus tulere, eos ad progeniem propagandam præmijs et immunitatibus invitantes: siquidem, cui tres erant liberi, vacatio muneris: cui plures, libertas donabatur.—Quinetiam præturas, quæsturas, et consulatus, honoresque et magistratus, Romani veteres nisi parentibus plurium liberorum comitijs dedere.*

dren

dren was allowed a dispensation from office, to him who had more was given his freedom. Moreover the old Romans bestowed in their assemblies, Prætorships, Quæstorships, and Consulships, both honours and magistracies, on none but the parents of many children."

Nay the father even of but one child had a right to inherit the estates of strangers; and to receive legacies. This gave rise to that observation of Plutarch, * "Many

* Plut. de amore prolis. Ρομαίων πολλοὶ γαμβροὶ καὶ γενοῦσιν, οὐχ ἵνα κληρονόμους ἔχωσιν, ἀλλ' ἵνα κληρονόμων δ' ἵκωνται.

Romans marry and get children,
not that they may have heirs, but
may be qualified to inherit."

And Juvenal speaks more fully
on this subject ;

† Through me you have obtain'd a Father's
merit,

To receive windfalls, and estates inherit.

Your profits will be more and greater yet,

If of three children I compleat the set.

† Jura parentis habes ; propter me scriberis hæres ;

Legatum omne capis ; nec non et dulce caducum.

Commoda præterea junguntur multa caducis,

Si numerum, si tres implevero.

Juv. Sat. ix. v. 87.

And

And here I shall venture to observe that it would be no bad policy, if in this present state and age, marriage were more encouraged among the poorer sort than it is. There has long prevailed with us a passion for building Hospitals: which are grown at last so numerous as to lessen the industry and frugality of men in low stations. But it would be very beneficial even to the Public, if a fund could be establish'd in every County, that might contribute towards the maintenance of the Labourer's Family in proportion to its number, not so much to relieve them in distress, as to prevent their falling into it. For the men of

this rank are in effect not only the support, but the defence of the rich, and great : and therefore demand all the encouragement that Law can prescribe, or Charity bestow.

Horace shews us the great benefits which had accrued to the Roman State by the hands that came from the plough. Having first inveigh'd against the Youth of his own time, he says,

* Not such a Youth, of such a strain,
Who dy'd with Punic gore the main ;

Who

* Non his juvenus orta parentibus

Infecit æquor sanguine Punico ;

Pyrrhumque,

Who Pyrrhus' flying war pursu'd ;
 Antiochus the Great subdu'd ;
 And taught the terror of the field,
 The cruel Hannibal, to yield :
 But a rough race, inur'd to toil ;
 With heavy spade to turn the foil ;
 And by a mother's will severe
 To fell the wood, and homeward bear

Pyrrhumque, et ingentem cecidit
 Antiochum, Annibalemque dirum.
 Sed rusticorum mascula militum
 Proles ; Sabellis docta ligonibus
 Versare glebas ; et severæ
 Matris ad arbitrium recisos
 Portare fustes ; Sol ubi montium
 Mutaret umbras, et juga demeret
 Bobus fatigatis ; amicum
 Tempus agens abeunte curru.

HOR. lili. 6. v. 33.

C 5

To

The pond'rous load, even when the Sun
 His downward course of light had run;
 And from the western mountain's head
 His changing shadows length'ning spread;
 And with the friendly hour of rest,
 Unyok'd the team with toil oppress'd."

FRANCIS.

CHAP.

CHAP. II.

ON CELIBACY.

SECTION I.

Celibacy discountenanced.

AS the Ancients encouraged Marriage ; so they discountenanced Celibacy *. Camillus and Post-

* Val. Max. ii. c. 9. § 1. Camillus et Posthumius Censores æra pœnæ nomine eos qui ad senectutem cœlibes pervenerant, in ærarium deferre jussunt : iterum puniri dignos, si quo

Posthumius when Censors appointed that old Bachelors should pay a sum of money, by way of fine, into the public Treasury ; and judged them worthy of being punished a second time, if they at all

modo de tam iusta constitutione queri essent ausi : cum in eum modum increparentur. “ Natura vobis quemadmodum nascendi, ita gignendi legem scribit ; parentesque vos alendo, nepotum nutriendorum debito (si quis pudor) alligaverunt. Accedit his, quod etiam a fortuna longam præstandi huiusce muneris vacationem estis affecuti : cum interim consumpti sint anni vestri, et mariti et patris nomine vacui. Ite igitur et nodosam exsolve stipem, utilem posteritati numerosæ.”

pre-

presumed to complain of so just a determination : when they were to be reprimanded in the following manner ; “ Nature prescribes you a law, as of birth so of procreation ; and your Parents in breeding you up, bound you (if there be any modesty) under the obligation of breeding up Grand-children for them. Add to all this, that ye have had the good fortune of a long time for the performance of this duty : when in the meanwhile your years have been consumed ; and you have been free from the names of Husband and Father. Go therefore and open your chest which ye have kept close - locked, that it may be of

of use to the many who shall come after you.

Hence we may learn that Bachelors were formerly taxed, however weak the reasons given for it might have seemed to them.

* Lycurgus set a mark of infamy on

* Plut. in Lycurgo. ἔμην ἀλλὰ καὶ ἀτιμίαν τινὰ προσέθηκε τοῖς ἀγάμοις· ἐργοντο γὰρ ἐν ταῖς γυμνοπαιδαῖς τῆς θεας. τῷ δὲ χειμῶνος οἱ μὲν ἀρχόντες αὐτοὺς ἐκέλευον ἐν κύκλῳ γυμνοῦς, περιῖναι τὴν ἀγορὰν, οἱ δὲ περιῖοντες, ἦδον εἰς αὐτοὺς ὡδὴν τινα πεποιημένην ὡς δίχαια πάχοιεν, ὅτι τοῖς νόμοις ἀπειθουσι. τιμῆς δὲ καὶ θεραπείας ἦν νέοι πρεσβυτέροις

on men who declined marriage. For they were debarr'd admittance to the shows of young women, who performed several public exercises undressed.—The Arehons ordered them to go round the Forum naked in the winter season: and as they went round they sung a song made upon themselves, that they suffered what was right for disobeying the laws.—And they had also that respect with-holden from them, which was wont to be

βυτέρους παρεικόν, ἐξέγοντο. ὅθεν καὶ το
 πρὸς Δερκυλλίδαυ ῥηθὲν αὐδεῖς, ἐμέμ-
 ψατο, καίπερ εὐδόκιμον ὄντα τρατη-
 γόν. ἐπὶ αὐτῷ, εἰπὼν, Οὐδὲ γὰρ
 ἐμοὶ σὺ τὸν υπείξοντα γεγένηκας.

shewed by the young men to their Elders. Hence nobody blamed what was said to Dercyllidas, though a famous Captain : for one of the younger men did not give up his seat to him, as he approached, saying, *You have not begotten a son, who might hereafter give up his seat to me.*

But Athenæus goes further, and says * “ that in Sparta the women, on a certain festival day,

* Athen. xiii. Εν λακεδαιμόνι τοὺς ἀγάμους αἱ γυναῖκες ἐν ἑορτῇ τινί, περὶ τὸν βωμὸν ἔλκεσαι ραπίζουσιν, ἵνα τὴν ἐκ τῆ πράγματος ὕβριν φεύγοντες, φιλοσοφῶσι τε καὶ ἐν ὥρᾳ προσίωσι τοῖς γάμοις.

dragged

dragged the unmarried men round about an altar, and beat them with rods: that, to avoid the scandal arising from this deed, they might become lovers of children, and in good time betake themselves to marriage."

The procedure of the Ancients against Bachelors seems to want some apology. It may therefore be presumed, that in many cases indulgencies were allowed them; and that the laws concerning them were not put in execution according to the rigour, unless where there was a scarcity of Inhabitants. Otherwise it would have been too great an encroachment upon the
the

the liberty of subjects, for whose sake the laws were principally made; and who were the best judges what state of life would suit them best.

SECTION II.

Some Philosophers for Celibacy.

HERE too I must ingenuously confess, that some ancient Philosophers gave Celibacy the preference to marriage, both in their own practice, and in their advice to others. For instance,
 * When Thales was importuned by

* Diog. Laert. in Thalete. i. 26.
 Trs.

by his mother to marry, he said, *It is not yet time*: again when she urged it more vehemently after he advanced in years, he said, *It is no longer time.*

Had the generality of men been of his humour, not only many noble families, and whole nations, but mankind itself would long ago have had an end. So that he consulted his own ease more than the Public Good. Socrates acted like a better Citizen, if not a wiser Phi-

Τῆς μητρὸς ἀναγκαζέσης αὐτὸν γῆμαι,
ἔλεγεν, Οὐδέπω καιρὸς. ἔτα ἐπειδὴ πα-
ρήθησεν, ἐγκειμένης, εἰπεῖν, Οὐκέτι και-
ρὸς.

losopher,

losopher. For * “ they say, that the Athenians, being desirous, because of the want of men, to increase the number, voted that every single man should marry ; and that Socrates did so.”

But Plutarch tells us the following story of the same Philosopher Thales†. “ Solon being with
Thales

* Diog. Laert. ii. in Socrate. Φασι βουληθέντας Ἀθηναίους διὰ τὸ λειπανδρεῖν, συναυξῆσαι τὸ πλῆθος φηφίσασθαι, ἱσμεν ; τοῦτο ποιησαι καὶ Σωκράτην.

† Plut. in Solone. Πρὸς Θαλῆν δ' εἰς Μίλητον ἐλθόντα τὸν Σόλωνα, θαυμάζειν ὅτ. γάμου καὶ παιδοποιίας το παρὰ
παν

Thales on a visit at Miletus, wondered he was altogether indifferent
about

παν ἡμέληκε. καὶ τὸν Θαλῆν τότε μὲν
σιωπῆσαι διαλιπόντα δ' ὀλίγας ἡμέ-
ρας, ἄνδρα παρασκευασαι ξένον, ἀρτίως
ἦκεν φασκόντα δεκαταῖον ἐξ Αἰθίων.
πυθόμενος δὲ τῷ Σόλῳνος εἰ δὴ τί και-
ρὸν ἐν ταῖς Αἰθίοχαις, δεδιδαγμένον ἅ-
ρξῃ λέγειν τὸν ἀνθρώπον, οὐδὲν εἰπὼν
ἕτερον, εἰ μὴ νῆ Δία νεανίσκον τίνος ἦν
ἐκφορά, καὶ προὔπεμπεν ἢ πολίς. ἦν γὰρ
υἱὸς (ὡς ἔφασαν) ἀνδρὸς ἐνδόξου καὶ πρω-
τεύοντος ἀρετῇ των πολιτῶν. ἐν παρῶν
δὲ, ἀλλ' ἀποδημεῖν ἔφασαν αὐτὸν ἥδη
πολὺν χρόνον. ὡς δυστυχὲς ἐκείνος,
φάναι τὸν Σόλωνα. Τίνα δ' ὠνέμαζον
αὐτόν; Ηἰκουσα, φάναι, τ' ὄνομα, τὸν
ἄνθρωπον· ἀλλ' οὐ μνημονεύω· πλὴν ὅτι
πολύς λόγος ἦν αὐτῷ σωφίας καὶ δικαιο-
συνης. οὕτω δὲ καθ' ἑκάστην ἀποκρίσιν
τω

about marrying and having children. Thales for that time was silent : but letting a few days pass, he procured a stranger to say, he had left Athens ten days ago. Solon asking, if there were any news at Athens, the man being instructed what to say, answered, There

τω φέω προσαγόμενον τὸν Σόλωνα, καὶ τέλος ἤδη συντεταραγμένον, αὐτὸν υποβάλλειν τῷ ὄνομα τῷ ξένῳ, πυνθανομένον μὴ Σόλωνος ὁ τεθνηκὸς υἱὸς ὀνομάζετο. φήσαντος δὲ ἀνδρῶν, τὸν μὲν ὀρμῆσαι παῖειν τὴν κεφαλὴν καὶ τ' ἄλλα ποιεῖν καὶ λέγειν ἃ συμβαίνει τοῖς περιπατοῦσι. τὸν δὲ Θαλῆν ἐπιλαβόμενον αὐτῷ καὶ γελασάντα, Ταῦτά τοι (φάναι) ὦ Σόλων, ἐμὲ γὰρ καὶ παιδοποιῖας ἀφίγησιν, ἃ καὶ σε κατέρειπαι τὸν ἔρρωμένεσσι. ἀλλὰ δάρρει τῶν λόγων ἕνεκα τούτων, ἐγὼ γὰρ εἰσιν ἀληθεῖς.

were

were none other, but that a certain Youth was carried out to be buried, and the whole city attended his funeral : for he was the son, (as it was reported) of an honourable man, and the first of the citizens for virtue ; yet he was not present ; but, they said, he had been gone a journey a long time. How unhappy is he, said Solon ! what is his name ? I heard his name, said the man, but I don't remember ; only that there was great talk of his wisdom and justice. Thus, at every answer, Solon increasing in fear, and at last being quite affrighted, he himself suggested a name to the stranger, and enquired if the deceased were not called the son

son of Solon ? When the man answered, Yes, he began to beat his head, and to do and say whatever occurs to them who suffer greatly. Then Thales took him up, and, laughing, said, These things, O Solon, have kept me from marrying, and from having children ; which disturb even you so much, though a man of the greatest constancy. But be comforted about the report, for it is not true."

This reflection of Thales does not make at all against marriage, however smart it might be, for, *

* lb. ἄτοπος δὲ καὶ ἀγενὴς ὁ τῷ φέει τῆς ἀποβολῆς, τὴν ζήτησιν ὧν χρὴ προειμένους.

(as Plutarch observes) that man is idle and cowardly, who shuns the possession of useful things, for fear of losing them.

* Bias, another Philosopher, when
asked

* Aul. Gell. v. c. ii. Cum rogatus esset a quodam Bias deberetne uxorem ducere, an vitam vivere cœlibem, ἢ τοι inquit, καλὴν ἔξεις, ἢ αἰσχράν. καὶ εἰ καλὴν, ἔξεις κοινήν. εἰ δὲ αἰσχράν, ἔξεις ποιήν. ἐκάτερον δὲ ἐκ ἀγασθῶν. ὁ ληπτέον ἄρα. sic autem hoc responsum convertuit: εἰ μὲν καλὴν ἔξω, ἐχ ἔξω ποιήν. εἰ δὲ αἰσχράν, ἐχ ἔξω κοινήν. γαμψτέον ἄρα. Favorinus [sic arguit] inter pulcherrimam feminam et deformissimam media quædam forma est; quæ à nimix pulchritudinis periculo,

D

et

asked by somebody whether he should take a wife, or live single, thus answered; *You will have either a handsome wife, or an ugly one. If she be handsome, she will be common; if she be ugly, she will be disgusting: neither is good; therefore you should take neither.* Some have turned this answer thus; *If I have a handsome wife, I shall not have a disgusting one: if I have an ugly wife, I shall not have a common one;*

et a summo deformitatis odio vacat; qualis a Q. Ennio *stata* dicitur; quæ neque κοινὴ futura sit, neque πονηρὴ quam formam Favorinus non inscitè appellabat *uxoriam*. Ennius autem eas ferè feminas ait incolumi pudicitia esse, quæ *stata forma* forent.

therefore

therefore I should marry. Favorinus thus argued; there is a certain middle form between a very handsome and a very ugly woman, which is without the danger of excessive handsomeness, and the disgust of extreme ugliness; such as is called by Quintus Ennius, *stated*: which will neither prove common nor disgusting, and which Favorinus not inelegantly stiled a *wife's form*. And Ennius declared, that those wives are the likeliest to preserve their chastity who are of a stated form.

But perhaps this argument may be farther improved by saying, that one ought to consider, not so much

the form of the body as the disposition of the mind. If that is bad, the handsomest will prove disgusting: if good, the ugliest will prove lovely.

What, in these modern times, makes several young men chuse to remain Bachelors, is the number of unhappy marriages they hear talked of in the world. Now there is no state of life compleatly happy. A single life may be as void of happiness in some respects, as a married life in others: and there may be more sources of happiness in the latter than in the former. Nor may the married life be (all things considered) so unhappy as it appears

pears to be. Besides the number
 of happy marriages, it is to be
 hoped, is far greater than of un-
 happy marriages : though the first
 may not make so much noise in a
 neighbourhood as the last. And
 after all we must not put unhappy
 marriages to the account of the
 married-state itself, but to some in-
 cidental causes, which may, by the
 Persons concerned, be often pre-
 vented. I shall mention some few
 of them.

SECTION III.

Causes of unhappy marriages, viz.

Improper education, &c.

ONE cause of unhappy marriages is an education of the Female Sex, either improper in itself or misapplied.

Young Ladies are too early initiated into the games of skill and chance. Hoyle must be their preceptor in the first, and Demoivre in the last. But when luck is against them they sometimes take Jonas for their master. Now a passion for gaming in a wife, must needs be disagreeable to a husband, as he

is

is not only deprived of the comforts
of domestic life, but lives under the
terrors of a ruined fortune.

Sometimes young Ladies are suf-
fered, when children, to domi-
neer over those who are under
them : and having contracted a ha-
bit of it, are too apt to practise it on
those who are rather above them.

For, as Milton says, the husband
and wife are

Not equal ; as their sex not equal seem'd ;

For contemplation he, and valour form'd,

For softness she, and sweet attractive grace,

MILTON Par. Lost. b. iv. l. 296,

So that she owes subjection,

But such is requir'd with gentle sway,
And by her yielded, by him best receiv'd.

Ib. l. 308.

Whereas if both strive for the mastery, there can be no conjugal peace, nor family-order.

Again, young Ladies are often taught, if not by precept, yet by example, to read idle, more than useful books; and to frequent places of diversion, more than places of improvement. By which means they learn how to carry on an intrigue, better than how to manage a house. What a grievance must this be to a man of œconomy, who all the while he is endeavouring

ing to support his fortune and credit, has a wife who is neglecting them both !

To all this we may add, That the endowments young Ladies acquire are form'd rather to catch than to retain the affections of men. For instance, Music serves to give pleasure to the performers and their friends : but as soon as marriage is obtain'd, music is laid aside : or (which is worse) it is followed with more attention than is suitable to prudence and decency ; being made a business, instead of an amusement. Hence they grow fonder of the company

of Fiddlers and Songsters, than of their husbands.

SECTION IV.

Wrong Choice.

ANOTHER cause of unhappy marriages is a wrong choice either in the Parents or in the Parties themselves.

In the Parents.

A Father wants to repair a crazy estate. For this purpose he obliges his son to marry; not by the measure of affection. but by the tale of money. The wife must bring
so

so much as will pay off the fortunes of the younger branches of the husband's family: which is nothing less than clearing the incumbrances of an Estate by the mortgage of an Elder Son. It is no matter whether the lady be young or old; handsome or ugly; good or bad; wise or foolish; healthy or sickly; well or ill tempered; so the main end be served. Is there in this situation any prospect of happiness? What now can keep alive that reciprocal tenderness, that alternate study to please, that free communication of sentiments, which are necessary requisites to the happy state of marriage? Instead of all this, no-

thing is seen but a distant civility, a cold interview, and no more conversation than in a pair of pictures.

Again, a Father sets up his daughter at bargain and sale. Her Lover must offer a settlement exactly proportionable to her dower. Mutual inclination is not at all consider'd : though nothing but mutual inclination can secure a happy life to the Couple. As for personal merit in the man, it is entirely out of the question. Such Parents had better have acted by the judgment of * Themistocles, who,

* Val. Max. vii. c. 2. 8. Exter. U-
nicæ

who, when the Father of an only Daughter consulted him, whether he should give her to a poor man, and well-accomplish'd; or to a rich man, and but meanly qualified; said, *I would chuse a man that wants money, before money that wants a man."*

In the Parties.

When the Parties themselves are at their own disposal, they are apt to lay more stress on Wit, Beauty, Riches, and Titles, than on Virtue, Prudence,

nicæ filiæ pater Themistoclem consulēbat utrum eam pauperi, sed ornato, an locupleti, parum probato, collocaret: cui is, Malo, inquit, virum pecuniā quam pecuniam viro indigentem.

Honour,

Honour, Meekness, and such qualities of mind and heart: by which conduct they often find themselves grossly mistaken. For Wit during courtship appears indeed to a great advantage, its only aim being to please. But it is observed to grow after marriage duller every day; or to turn its edge against the object it strove to please before. If the married Couple are both Wits, from Lovers they soon become Rivals, and cast their sarcasms at each other, merely for the sake of applause. This familiarity breeds at last hatred and contempt.

Beauty is very alluring: but
how soon do its charms go off in
a wedded

a wedded state! Not to mention
that they may be utterly spoiled by
diseases or accidents. Or should
they remain for a long while, yet,
if we may believe Mr. Addison,

Beauty soon grows familiar to the Lover,
Fades in his eye, and palls upon his sense.

ADD. Cato.

Besides that beauteous persons
are generally so much in love with
themselves, as to have but little of
it to spare for their partners. Nay
they are inclined to think it a pity
to communicate their graces only
to one, and therefore look about
for new Votaries at their altar.

Riches promise a lasting fund of
joy

joy and satisfaction: but if they chance to fail, and there be nothing else left to comfort the married Pair, how wretched must their condition be! And if they continue, the Party who brings them, may upon that account render the life of the other very unhappy. Hence Juvenal concludes that

* There is not in life,
A greater torment than a purse-proud Wife.

Titles have glittering outsides,
but there may be sometimes an
evil hid within, that may break

* *Intolerabilius nihil est quam femina dives.*

Juv. Sat. vi. 459.

forth

forth when it is too late. Horace thus recounts the sad catastrophe of a man who married for the sake of a noble alliance.

• Of Sylla's wanton daughter when possess'd,
Villius believ'd himself supremely blest :
To a Dictator thus to be allied
Dazzled his senses, and indulg'd his pride :
But sure, if Vanity were fairly rated,
Methinks poor Villius was full hardly treated :
When buffeted and stab'd the coxcomb dies,
While in the Wanton's arms a Scoundrel lies.

FRANCIS.

* Villius in Faustâ Sullæ gener, hoc miser uno
Nomine deceptus, pœnas dedit usque superque
Quam satis est, pugnis cæsus, ferroque petitus,
Exclusus fore, quum Longarenus foret intus.

HOR. i. Sat. 2. 24.

S E C-

SECTION V.

Concubinage.

IF a young Gentleman be deterred from marriage by some of the causes above-mentioned, what will he do? Instead of a wife he will take a mistress. Yet he soon finds this to be only a visionary happiness. His daily conversation is in all probability with a low-bred creature, whose relations must be sometimes his companions. From hence he sinks gradually into a train of vulgar sentiments, and becomes unqualified for a gentleman-like intercourse with his superiors or equals. He cannot expect

pect she will be true to him, who has not been true to herself. She has an interest totally opposite to his: so that if she be covetous, she is a leech; if she be profuse, she is a harpy. Her situation in life oftentimes renders her uneasy in herself, and troublesome to him. And he too cannot but reflect with some degree of pain, that he acts a scandalous part in transgressing the rules of decency and order; and a cruel one in ushering children into the world with the mark of infamy upon them, and whom he is ashamed to own they are his. During this guilty commerce he must spend much of his time with her, or she will, to kill time, and drown thought,

thought, seek out for the company of other men. The affronts put upon her, he must take upon himself: and this will bring him into quarrels which may not redound greatly to his honour or safety.

He will say, I can part with her, whenever I please. But alas! *
 “one false tear squeezed from a lascivious eye, will quench his fiercest resolution.” From that moment he becomes a slave to a vi-

* Hæc verba unâ mehercule falsâ lacrumulâ,
 Quam oculos terendo miseré vix vi expresserit,
 Restinguet.

TER. Eun. Act i. Scen. i. 22.

cious

cious and ensnaring woman ; and is drawn by little and little into the very pit he had been so cautious to avoid, viz. Matrimony.

Such is most commonly the case of one who takes a Mistress : to which a timely and well-concerted marriage, though somewhat unhappy, is vastly preferable, especially where a man has nothing to reproach himself withal.

Upon the whole, I shall refer the wary Bachelor to a part of the speech of Metellus Numidicus, which he spake in his Censorship to the people about marrying wives.

“ If

* “ *If, O ye Romans, we could be without a wife, we might all be free of that trouble: but since Nature has so ordered it, that there is no living easy enough with them, nor at all without them, we must consult a perpetual safety before a short-liv'd satisfaction.*”

* Aul. Gel. 1. c. 6. Si sine uxore, Quirites, possemus esse, omnes ea molestia careremus: sed quoniam ita Natura tradidit, ut nec, cum illis satis commodè, nec sine illis ullo modo vivi possit; salutis perpetuæ potius quam brevi voluptati consulendum.

CHAP. III.

ON ADULTERY.

LAwgivers both ancient and modern, sacred and profane, have not only encouraged this institution of marriage, but guarded against every breach of it. Now one of the greatest is Adultery. This is a crime of the first magnitude ; of a baleful influence ; and of a complicated nature.

SECTION I.

Its Heinousness.

THE Adulterer robs the husband of a most precious jewel, viz. the love of his wife; renders him unhappy perhaps as long as he lives; and brings the scorn of the world upon him—He robs the wife of her innocence, her reputation, and her peace of mind; and draws her into the same guilt and condemnation with himself—Nay, he robs the children that are yet unborn of their property, by causing his own illegitimate brood to partake with them, if not to take place of them,

in the inheritance of their Father.

The Adulteress affronts the Deity, by thus despising his holy ordinance; by transgressing one of his commandments; and by breaking the vow she made in his presence, and to the performance of which she in the most solemn manner called him to be a witness

——She wrongs her husband in giving herself to another besides him, who alone *hath power of her body, and to whom she is bound by the law, so long as he liveth*; and in bringing forth a spurious issue, and thereby laying an additional burthen upon him, as well as

E

supplant-

supplanting his own lawful children.

The very Heathens looked upon Adultery as an abomination. * Cicero ranks it among the most infamous crimes, and says, it is base to commit it. † Xenophon reasons after this manner ; Cities are not ignorant, that Friendship is

* Cic. de offic. l. 35. Latrocinari, fraudare, adulterare, turpe est.

† Xen. in Hierone. Οὐ λέληθεν τὰς πίλεις, ὅτι ἡ φιλία μέγιστον ἀγαθὸν καὶ ἥδιστον ἀνθρώποις ἐστὶ τοῖς γὰρ μοιχῆς νομίζουσι πολλὰ τῶν πόλεων νηπιναὶ ἀποκτείνειν δηλονότι διὰ ταῦτα ὅτι λυμαντῆρας αὐτοὺς νομίζουσι τῆς τῶν γυναικῶν φιλίας πρὸς τοὺς ἀνδρας εἶναι.

the

the greatest good, and the most pleasing to mankind. Therefore many cities suffer Adulterers to be killed with impunity, for this plain reason, because they are destroyers of wives friendship towards their husbands.

* Lyfias the Orator pleads in his defence, for having killed Eras-
tothenes

* Lyfias Orat. pro cæde Eras-
τοθέου ἐλαλιτόνος ζημίας ἀξίως ὁ
νόμος ἡγήσατο εἶναι, ἢ τὸς πᾶσι
ἡγούμενος, τὸς μὲν διαπραίτομενας δια,
ὕπὸ τῶν διαφέντων μισῆσαι. τὸς δὲ πᾶ-
σαντας οὕτως αὐτῶν τὰς ψυχὰς διαφ-
θερεῖν, ὥς ὀικειότερας αὐτοῖς ποιεῖν τὰς
ἀλλοτρίας γυναῖκας, ἢ τοῖς ἀνδράσι, καὶ
E 2 πᾶσαν

tothenes whom he caught in Adultery with his wife, "that a Law [of Areopagus] judged ravishers to be worthy of a less punishment than Seducers : supposing that they who acted by force were hated by those who were forced by them ; but they who seduced them, so corrupted their hearts, as to make other men's wives more attached to themselves than to their husbands ; and that the whole house became to be at their command ; and that the children were un-

πάσαν ἐπ' ἐκείνοις τὴν οἰκίαν γεγονέναι,
 ἢ τὰς παῖδας ἀδελφούς εἶναι ὁποτέρων
 τυγκανουσιν ὄντες, τῶν ἀνδρῶν ἢ τῶν
 γυναικῶν.

known

known whose they were, the husband's or the adulterer's."

Yet our modern fine Gentlemen look upon this crime as mere gallantry, and though guilty of it never so often, would still pass for men of honour. But what honour can there be in that man, who violates the laws of friendship, the laws of his country, the laws of reason, and the laws of God?

SECTION II.

Its Scarceness.

FROM the sense which the Heathens entertained of Adultery, we may suppose it was but

feldom committed at first in any Nation. At Sparta, it was once quite unknown, as appears from the following story *: “Geradas, one of the most ancient Spartans, being asked by a stranger what punishment Adulterers suffered among them, answered, *There is no Adul-*

* Plat. in Lycurgo. Λόγος ἀπομνημονεύεται Γεράδα τινὸς Σπαρτιάτῃ των σφόδρα παλαιῶν, ὃς ἐρωτηθεὶς ὑπὸ ξένου τί πάχουσιν οἱ μοιχοὶ παρ’ αὐτοῖς, ἔπεν, Ο ξένε, οὐδεὶς γὰρ μοιχὸς παρ’ ἡμῖν. ἐκείνου δὲ ὑπολαβόντος, Εὰν δὲ γένηται; Τάυρον (ἔφη ὁ Γεράδας) ἐκτίνει μέγαν, ὃς ὑπερέκφας το Ταύγετον, ἀπὸ τῆ Εὐρώτα πίεται. Θαυμάσαντος δὲ ἐκείνου καὶ φήσαντος, Πως δ’ ἂν γένοιτο τοῦς τηλικούτος; γελάσας ὁ Γεράδας, Πως δ’ ἂν (ἔφη) ἐν Σπάρτῃ μοιχὸς γένοιτο;

terer among us. But the stranger asking him again, Suppose there were ; He would, replied Geradas, be fined a great bull, which stretching its neck over Taygetus, could drink out of Eurotas. But how, said the stranger wondering, could there be such a bull ? And how, said Geradas with a smile, could there be an Adulterer at Sparta ?

The truth is, while a State is in its infancy, the members of it have no leisure for intrigues of this kind. Their time and thoughts are rather taken up in cultivating peace with their neighbours ; securing themselves from their ene-

mies ; and making laws to keep
one another in order, as Horace
informs us,

* Hence they began to cease from war ;
To fortify their towns ; and laws prepare
Against thief, robber, and adulterer.

Besides, there is commonly at
that time a great simplicity of man-
ners in both sexes, of which the
same Poet has drawn a beautiful
Picture from the Getae.

* dehinc abstinere bello ;

Oppida, coeperunt, munire ; et ponere leges,

Nequis fur esset, neu latro, neu quis adulter.

HOR., SAT. L. i. SAT. iii. v. 104.

* " No

* "No wife high-portion'd rules her spouse
Or trusts her essenc'd Lover's faithless vows.

The courtiers there for dowry claim
The Parents virtue ; and the spotless fame

Which dares not break the nuptial tie,
Polluted crime, whose portion is to die."

FRANCIS.

To all this I may subjoin, that
there was as yet little or no gold
to bribe the guards which are
set over a woman's conduct, and

* Nec dotata regit virum

Conjux, nec actido fidit adultero.

Dos est magna parentium

Virtus, et metuens alterius viri

Certo fœdere castitas :

Et peccare nefas, aut pretium est mori.

Hon. Od. L. iii. Od. 24. v. 29.

E 5

which

which Horace again insinuates few
can withstand.

* “ Swifter than light’ning’s winged force
All-pow’rful Gold can speed its course ;
Through watchful Guards its passage make,
And joy through solid walls to break.”

FRANCIS.

SECTION III.

Its Increase.

BUT if the members of a State
kept themselves chaste for a
while, yet as soon as they became

* Aurum per medios ire satellices

Et perrumpere amat saxa, potentius

Ictu fulmineo.

HOR. Od. Lib. iii. Od. 16. v. 9.

rich

rich and at ease, they gave a loose
to this as well as to other vices.
For thus again Horace speaks of
the age he lived in ;

* “Fruitful in crimes this Age first stain’d
Their hapless Offspring, and profan’d
The nuptial bed.”

FRANCIS.

E’en delicacy had no more re-
gard paid to it than chastity, if we
may believe this Poet, who de-
scribing a girl just married, says ;

* *Fœcunda culpæ secula, nuptias*

Primunt inquinavere, et genus et domos.

Hor. Od. L, iii. Od. vi. v. 17.

† Streight made a wife, amidst her husband's
cups.

With young adulterers she sits and sups :

Nor cares to whom she yields herself,

When lights are out, for sordid pelf.

But ask'd will rise, her conscious husband by,

To prostitute connubial modesty,

At Factor's call, or Pilot's hire,

Of lustful shame a costly buyer."

BROME.

† Mox juniores quærit adulteros

Inter mariti vina ; neque eligit

Cui donet impermissa raptim

Gaudia, luminibus remotis :

Sed iussa coram, non sine conscio

Surgit marito, seu vocet infitor,

Seu navis Hispanæ Magister,

Dedecorum pretiosus emptor.

HOR. OD. III. 6. 25.

Horace

Horace indeed complimented Augustus very justly for enacting the Julian law, which produced at first a happy effect.

* No foul adultry stains our race,

Your law has cur'd that spotted vice ;

The child can shew the father's face,

Pain follows sin, and checks its rise."

CREECH.

And Martial thus addresses Domitian, though he thereby shewed

* Nullis polluitur casta domus stupris ;

Mos et lex maculosum edomuit nefas ;

Laudantur simili prole puerperæ :

Culpam pœna premit comes.

Hor. Od. iv. 5. 21.

himself

himself to be a better Courtier than
a Prophet.

• ‘Twas once a sportive fashionable plan
To injure marriage-beds, and castrate man.
Both you forbid, great Cæsar, to secure
An Offspring genuine from a marriage pure.
Nor Eunuchs nor Adulterers shall be seen
To walk the streets as long as thou do’st reign,
Whereas before (O shame to Rome and her’s)
E’en Eunuchs were become Adulterers.

* Lufus erat sacræ connubia fallere tædæ,

Lufus et emeritos exsecuisse mares.

Utraque tu prohibes, Cæsar, populisque futuris

Succurris, nasci quos sine fraude jubes.

Nec spado jam, nec mæchus erit, te præside, quisquam.

At prius (o mores !) et spado mæchus erat.

MAR. vi. 7. ad Domitianum.

But

But Juvenal lashes Domitian
very severely, on account of his
committing Adultery and Incest to-
gether, with his niece Julia mar-
ried to Sabinus;

• Such lately was a vitious Magistrate,
Who then restor'd those laws that might create
In Mars and Venus dread, himself the while
With impious drugs and potions would beguile
The teeming Julia's womb, and thence would
wrest

Crude births that yet th'incestuous Sire confest."

DRYDEN.

* Qualis erat nuper tragico pollutus adulter

Concubitu, qui tunc léges revocabat amaras,

Omnibus atque ipsis Veneri Martique timendas:

- Cum tot abortivis facundam Julia vulvam

- Solveret, et patruo similes effunderet offas.

Juv. Sat. ii. v. 300.

S E C-

SECTION IV.

Methods of preventing, &c.

IT cannot in justice be denied but that Statesmen have at all times used several methods of preventing or restraining this great evil.

Use of Public Women.

One method was to allow the use of Public Women. * It is said that “Solon, to keep the

* Alex. ab. Alex. iv. c. 1. Solon ut ab adulterijs cohiberetur Juventus, coemptas meretriculas Athenis prostituit, obviaque in Venerem esse voluit.

Youth from adulteries, bought and introduced at Athens, Courtezans, and suffered them to offer themselves for prostitution. Something like this is done at present even in some Christian states. But however excusable it might have been in Heathens, it is not at all so in Christians : because they are taught by a much wiser Law-giver than Solon, * *not to do evil that good may come.* And fornication is an evil, though not so great a one as Adultery.

Horace brings Cato's authority for the use of such women in the following lines ;

* Rom. iii. 8.

† As a fam'd Spark was passing from the stews,
This divine speech old Cato's said to use.
Here come, my Lads, if Lust have swell'd your
vein,

Not practise on the wives of other men.

But how much more divine is this
speech of the great Apostle; *Know
ye not, that your bodies are the
members of Christ? shall I then
take the members of Christ, and

† Quidam notus homo cum exiret fornice; Macte

Virtute esto, inquit sententia dia Catonis.

Nam simul ac venas inflavit tetra libido,

Huc juvenes æquum est descendere; non alias

Pernolere uxores.

HOR. 1 S. 2. v. 31.

* Rom. 6. 15.

make

make them the members of an harlot? God forbid.

SECTION V.

Care over Wives and Virgins.

A surer and more justifiable method was to take a due and timely care of the female sex, both married and unmarried. Different States had different ways of doing it. This will appear by comparing the Greeks and Romans together: for says Cornelius Nepos, * Which of the Romans scruples

* Corn. Nep. Præf. in vit. Quem enim Romanorum pudet uxorem ducere

scruples to carry his wife to a feast, or whose wife does not occupy the fore-rooms of the house, and appear in company? Which is quite otherwise in Greece. For she is neither carried to any feast but that of her relations; nor does she dwell but in a remote quarter of her house, called the women's apart-

cere in convivium? aut cujus materfamilias non primum locum tenet ædium, atque in celebritate versatur? Quod multo fit aliter in Græcia. Nam neque in convivium adhibetur, nisi propinquorum; neque sedet nisi in interiore parte ædium, quæ gynæconitis appellatur, quo nemo accedit nisi propinqua cognatione conjunctus.

ment,

ment, where no man approaches but a near kinsman."

* However in ancient times, as Valerius Maximus acquaints us, the use of wine was unknown to the Roman Women: lest they might fall into some disgraceful action. For usually the next step of

* Val. Max. ii. c. 1. 5. Vini usus olim Romanis foeminis ignotus fuit, ne scilicet in aliquod dedecus prolaberentur: quia proximus a Libero patre intemperantiæ gradus ad inconcessam Venerem esse consuevit. Id. vi. 3. 9. Et sane quæcunque foemina vini usum immoderatè appetit, omnibus et virtutibus januam claudit, et delictis aperit.

intem-

intemperance from Father Bacchus is to forbidden Venus. “ And indeed (our Author says elsewhere) whatever woman immoderately covets the use of wine, shuts the door against every virtue, and opens it to every vice.” Yet one should think a just medium could have been safely observed between an immoderate use of wine and no use of it at all.

The Spartans allowed their Virgins to go unveiled, but not their married women. * One asking Charilaus

* Plut. in Apotheg. Lacon. Πυνδαριόμενα τινος δὶα τί τὰς μὲν κόρας ἀναλύωτες,

rilais the reason of it, he said, *The Virgins have husbands to get, the married women are to keep the husbands they have gotten.*"

* It was a custom for the Cīan young women to meet at the public Festivals, and to spend the day together; and their Lovers beheld them playing and dancing. Towards the evening, each one departed

λύπτες, τὰς δὲ γυναῖκας, ἐγκεκαλυμμένας εἰς τοῦμφανές ἄγουσιν, Ὅτι (ἔφη) τὰς μὲν κόρας ἄνδρας εὔρειν δεῖ· τὰς δὲ γυναῖκας σώζειν τοὺς ἔχοντας.

* Plut. de virt. mulier. Ταῖς Χίων παρθένοις ἔθος ἦν εἰς ἱερὰ δημόσια συμπόρευ-

parted to her own home, and ministered to her Parents and Brothers even to the washing of their Feet. Oftentimes many Lovers courted the same woman, but so modestly and decently, that as soon as she was betrothed to one, the

πορεύεσθαι καὶ διημερεύειν, μετ' ἀλλήλων οἱ δὲ μήτηρες ἔδεωντο παιζέσας καὶ χορεύσας. ἐσπέρας δὲ πρὸς ἐκάστην ἀνὰ μέρος καθίζουσιν διηκονοῦντο τοῖς ἀλλήλων γονεῦσι καὶ ἀδελφοῖς, ἄχρι τῆ καὶ τοὺς πόδας ἀπονίζειν. ἤρων πολλάκις μίας πλείονες οὕτω κόσμιον ἔρωτα καὶ νόμιμον, ὥστε τῆς κόρης ἐγγυηθείσης ἐνὶ τοὺς ἄλλους εὐδὺς πεπαῦσαι. κεφάλαιόν δὲ τῆς εὐταξίας τῶν γυναικων, τὸ μὴτε μοιχείαν μὴτε φθοράν ἀνυεγγυον ἑτῶν ἑπταχοσιων μνημονεύεσθαι παρ' αὐτοῖς γενομένην.

others

others left off courting her. The result of this good conduct of these women was, that neither adultery nor debauchery was said to have been committed among them for seven hundred years."

SECTION VI.

Punishments.

BUT the usual method of preventing or restraining adultery was by inflicting punishments. Many and various have been the modes of punishing adulterers: I shall here speak of some of the most remarkable.

F

Death

Death in general.

Death was one mode of punishing adulterers*. A law of the Romans authorized a husband to kill his wife, if he caught her in the act of adultery. And Lysias declares that [in a law of Areopagus †] “it is expressly said not to condemn that man for mur-

* Frag. xii. Tab. 25. Si eam in adulterio deprehenderet, tum eam occidendi jus potestatemque haberet.

† Lysias pro cæde Erastoth. Διαρρη-
δην εἰρηται, τὲτον μὴ καταγινώσκειν φόνε,
ὅς ἐπὶ δάμαρτι, τῇ ἑαυτῷ μοιχὸν λαβὼν,
ταυτὴν τὴν τιμωρίαν ποιῆσεται.

der,

der, who, if he catch an Adulterer with his wife shall take upon him this revenge *." And a law of the Wisigoths enacted that "if a husband kill'd the adulterer with the adulteress, he should not be accounted guilty of homicide."

† By another Law of the Wisigoths, even "if a Father kill'd his daughter, whom he had taken in

* LL Wisig. L 4. Antiqua. Si adulterum cum adultera maritus occiderit, pro homicida non teneatur.

† LL Wisig. 5. Antiqua. Si filiam in adulterio Pater in domo sua occiderit, nullam pœnam aut calumniam incurrat.

adultery in his own house, he was not to incur any penalty or reproach"—* "Nay Solon allowed any man to kill an adulterer when he took him." So that an Adulterer was in the condition that Cain fear'd to be in, That *every one* that found *him* might *slay* him.

But all this was carrying the matter too far : because it was taking the sword of Justice out of the hands of the Magistrate, and putting it into the hands of a private man ; who mad with jealousy, or blinded with zeal, might often

* Plut. in Solone. Μοιχὸν μὲν ἀνελεῖν τῷ λαβόντι δέδωκεν.

have mistaken the fact itself. Yet Justinian went farther still, and made a law *, That “if any man suspected with reason another’s having a design to corrupt the chastity of his wife, and sent

* Justinian. Auth. Collat. viii. tit. xviii. Nov. 117. Εἴπερ τις, ὡς εἰκὸς υποπτεύσει τινὰ βέλεσθαι τῇ τῆς ἰδίας γαμετῆς συμπάϊξαι σωφροσύνῃ καὶ παραγωγείας αὐτῷ ἐγγράφους τρεῖς ἐκπέμψει ἐχούσας μαρτυρίας ἀνδρῶν ἀξιοπίστων, καὶ μετὰ ταύτας τὰς τρεῖς ἐγγράφους διάμαρτυρίας ἑυροὶ αὐτὸν συντυγχανόντα τῇ ἑαυτῇ γαμετῇ· εἰ μὲν εἰς τὸν ἴδιον οἶκον, ἢ τὸν αὐτῆς τῆς γυναικὸς, ἢ τῷ μοιχῷ, ἢ ἐν προπίναις, ἢ ἐν προαγείοις εἶναι ἀδείαν τῷ ἀνδρὶ ταῖς οἰκείαις χερσὶ τὸν τοῖαυτον ἀνελεῖν, ἔδενά κίνδυνον ἐντέθειν ἐλλαμβουμένῳ.

him three written notices of it, bearing the testimony of men of credit, and after these three written notices thus testified, found him conversing with his wife either in his own house, or his wife's, or the adulterer's, or in a tavern, or in the suburbs, the husband should have the liberty of killing such a one with his own hands, without running thenceforward the least danger for so doing."

Adulterers likewise were put to death not only by permission, but by order of the magistrate*.

* Suet. Aug. c. 67. Proculum ex acceptissimis libertis mori coegit, compertum adulterare matronas.

"Augustus

“ Augustus put to death Proculus one of his favourites whom he had made free, having understood that he debauch’d married women.” In this he followed the example of Julius † “ who did the same to a favourite of his and his freedman, for having seduc’d the wife of a Roman Knight, though no one had complain’d to him of it.” And ‡ “ Aurelianus punish’d with

† Suet. Jul. c. 48.—Libertum gratissimum ob adulteratam equitis Romani uxorem, quamvis nullo querente, capitali poena affecerit.

‡ Vopisc. Aurelian. ii. Ancillam suam quæ adulterium cum servo suo fecerat, capite punivit.

F 4 death

death his servant-maid who had committed adultery with one of his slaves."

SECTION VII.

Kinds of death.

AND here it may not be improper to be more particular, and to mention some few of the many kinds of death men have been put to by order of the Magistrate for Adultery.

Stoned.

‡ Moses commanded, "If a woman that was only betrothed was

‡ Deut. xxii. 23, 24.

taken

taken lying with another, both of them should be stoned to death."

Beheaded.

Among the * Athenians and the † Bohemians beheading was executed on Adulterers §. "And it is

* Petit. Leg. Atticæ. p. 460. Fol. Par. 1635. Capital erat in adulterijs deprehendi.

† Du Fresne. Gloss. Lat. F. Lutet. 1678. ad V. Adul. Adulterorum pœnam apud Bohemos decapitationem fuisse docet Vita S. Adalberti Episcopi Pragensis.

§ Heracl. de Polit. Νόμον δέ τινα φασὶ τὸν βασιλέα Τέννην διατέδαι, "et

is said, that a certain King of Tenedos publish'd a law, that if any one took an adulterer, he should cut off his head with an ax, and that, his own son being taken, and he who took him asking the King what he must do, he answer'd, *Put the Law in Execution."*

Burnt alive.

* "The Emperor Opilius had

τις λάβοι μοιχὸν ἀποκτείνειν τοῦτον
πελέκει αἰλόντος δὲ τῷ υἱῷ αὐτοῦ, καὶ τῷ
λαβόντος ἐρομένῃ τὸν βασιλεῖα τί χρὴ
ποιεῖν, ἀποχρῆνασαι τῷ νόμῳ χρῆσθαι.

* Capitol. Adulterij reos semper vivos simul incendit junctis corporibus.

always

always the bodies of the two Persons guilty of adultery fastened together and burnt alive." There is in Diodorus Siculus, a very odd Story relating to this kind of death*. Sesostris II. King of Ægypt "was depriv'd of sight. In the tenth year, He was directed by an Oracle to wash his face with the water of that wife who had

* Diod Sic. i. p. 38. Han. Ἐφερίδῃ τῆς ὀράσεως. τῷ δεκάτῳ δ' ἔτει μαντείας αὐτῷ γενομένης, γυναικὸς οὐρῶν ῥίζεσθαι το πρόσωπον, ἣτις πείραν ἀνδρός ἐκ εἰληφεν ἑτέρῃ. τῶν μὲν γυναικῶν, ἀπὸ τῆς ἰδίας ἀρξάμενος, καὶ πολλὰς ἐξετάσας, ὑδεμίαν εὗρεν ἀδιάφθορον, πλην κηπουροῦ τινός, ἦν υἱὸς γενόμενος ἐγήμε. τὰς δ' ἄλλας ζώσας κατέκαυσεν.

known no other man than her husband. Having tried several, beginning with his own, he found not one of them untainted, except the wife of a certain Gardener; whom after he was cured, he married: the rest he burned alive."

I have recited this Story upon no other account than to shew how severe they were in those times against Adultery. For as to the matter of fact, though Sesostris might have believed he recover'd his sight by the method aforesaid, yet it is hardly probable that but one out of so many wives could provide such a remedy

medy, supposing it to be effectual.

Torn asunder.

* “An uncommon death was ordered by the Emperor Valerius Aurelianus to be executed on a Soldier, who had committed adultery with the wife of his Host: viz. that the tops of two trees should be bent down and tied fast

* Vopisc. Aurelian. Militem qui adulterium cum hospitis uxore commiserat, ita punivit, ut duarum arborum capita inflecteret, et ad pedes militis deligaret, eademque subito dimitteret, ut scissus ille utrinque penderet.

to the feet of the soldier, and that the boughs should be let go of a sudden, so that he being torn asunder might hang on each side."

Here the punishment was very expressive of the crime. It was proper that he who had thus divided man and wife, who were *one body*, should have his own body divided, and become a prey to the fowls of the air.

Hang'd.

* In old Saxony if a married woman,

* Du Fresne Gloss. Lat. T. i. p. 76.
In antiqua Saxonia, si mulier maritata
fracta

man, breaking the marriage-contract, committed adultery, they sometimes forced her to end her life, being hanged with a halter fastened by her own hand; and over her body set on fire and burnt they hang her seducer.

* A sentence was past at Orleans against Deslandes Sieur du Moulin;

fracto foedere matrimonij adulterium perpetraverit, aliquando cogunt eam propria manu per laqueum suspensam vitam finire: et super bustum illius incensæ et concrematae corruptorem ejus suspendunt.

* Thuan. Hist. xxxv. ad ann. 1563.
Judicium

lin, who being convicted of having debauched Godarde, the wife of John Godin, while her husband was in the camp, was condemned to die: and both Deslandes and Godarde were hanged in the public street.

Here too the punishment seems to be well adapted to the crime.

Judicium Aureliani latum est contra Landam Molinum qui Godardam Jo. Godini uxorem dum vir in castris esset corrupisse convictus, ad mortem damnatus est, amboque Landa et Godarda in publica platea laqueo suspensi sunt.

For

For an ignominious life deserves
 an ignominious death : and he who
 has wallowed in another man's
 bed like a swine, ought for so do-
 ing to be hang'd like a dog.

CHAP. IV.

ON ADULTERY.

THOUGH Death was in many countries a stated mode of punishing Adulterers, yet other modes of punishing Adulterers were made use of, less severe, in the common opinion at least, than Death. To proceed therefore.

SECTION I.

Banishment was another mode of punishing Adulterers.

THUS Augustus being resolved to reform their vicious practices, sent the Poet Ovid to the chaste region of the Getae to cool his amorous fires. No one indeed would be surprized to hear that this Author was guilty of Adultery (for which he had the good fortune to be only banished) being looked upon as a Professor of the arts of illicit love, as himself assures us,

Under

• Under the charge of this foul crime I lie,
That I'm a Doctor in adultery.

However he rather insinuates
than proves his innocence, in his
appeal to Cupid, too partial a judge
in cases of intrigue.

† You know, and may, if sworn, protest
I never brake a husband's rest, &c.

And he brings other men's writings
to excuse his own, as,

* turpi crimine tactus

Arguor obscœni Doctor adulterii.

OVID. Trist. ii. 211.

† Seis tamen et liquido juratus dicere possis,

Non me legitimos sollicitasse toros, &c.

OVID. Pont. iii. 3. 49.

What

* What is the Iliad but a shameless whore,
For whom was wag'd a ten year's war before
Between a husband and a paramour ?

† Tiberius having gotten Apuleia Varilia excus'd the greater punishment for adultery, prevailed that after the example of their ancestors she might be remov'd above two hundred miles from her rela-

* *Ilias ipsa quid est nisi turpis adultera, de quâ
Inter amatores pugna virumque fuit ?*

OVID. Trist. ii. 371.

† Tac. Annal. ii. c. 50.—Adulterij graviolem pœnam deprecatus, ut exemplo majorum propinquis suis ultra ducentissimum lapidem removeretur, suavit. Adultero Manlio Italiâ atque Africâ interdictum est.

tions.

tions. The Adulterer Manlius was banished out of Italy and Africa.

* He likewise punished with banishment Aquilia, who was accused of committing adultery with Varius Ligur, though Lentulus Getulicus, the Consul elect, had condemned her according to the Julian Law.

It seems these two Emperors

* Tac. Annal. iv. 42. Aquiliam adulterij delatam cum Vario Ligure; quanquam Lentulus Getulicus consul designatus lege Julia damnâset, exilio punivit.

were

were of opinion that Persons, who
 behav'd so unworthy the mem-
 bers of a well regulated Society,
 ought to be debarred from dwelling
 any longer therein, though it were
 their own native country.

SECTION II.

*Confinement was another mode of pu-
 nishing Adulterers.*

* **C**ONSTANTINE ordered
 that a wife, guilty of adul-
 tery, should be thrown into a nun-
 nery;

* Constant. Authen. Collat. tit. xvii.
 Novell. 134. cap. 10. Κελευσμεν την
 μοιχευθεϊσαν γυναῖκα ἐν μονατηρίῳ ἐμι-
 βάλλ-

nery, giving her husband a power of taking her out again within two years if he thought proper ; If the above-mentioned time elapsed, or the husband died, before he took her out, He order'd her to be shorn, and to take the habit of a nun, and to abide in the same nunnery during her whole life."

This great Civilian judged that
a Wo-

βάλλεσθαι· καὶ εἰ μὲν εἰσω διετίας ἀνα-
λαβεῖν αὐτὴν ὁ ἀνὴρ βουλευθεῖν, ἐξῆσιαν
αὐτῷ δίδομεν τρεῖς τοιαῦτα. Εἰ δὲ ὁ
προεῖρημένος χρόνος παρέλθῃ, ἢ ὁ ἀνὴρ
πρὶν ἀναλαβεῖν τὴν γυναῖκα τελευτήσῃ,
κελευ-

a Woman who had so little regard for her honour, as to break through the bounds of Chastity prescrib'd her, should be confin'd, at first only for a time, in hopes she might become less disorderly ; and if she did not, should be confin'd for ever.

κελευομεν κουρεύεσθαι αὐτήν, καὶ τὸ μοναχικὸν ἑνὶ λαμβάνειν, καὶ οἰκεῖν ἐν τῷ αὐτῷ μοναστηρίῳ, ἐπὶ ὅλον τὸν χρόνον τῆς οἰκείας ζωῆς.

SECTION III.

Public Disgrace was another mode of punishing Adulterers.

SOLON made the following Law in respect to wives.

* “He would not suffer a wife with whom an Adulterer had been caught, to be drest out : but if she were drest out, he bad any one who met her to tear off her cloaths.”

Again, by a Law of Athens, it

* Æschin. Orat. in Timarch. Τὴν γυναῖκα, ἐφ' ἣν ἄλλος μοιχὸς, οὐκ εἶς κοσμεῖσθαι. εἰ δὲ κοσμήται, τὸν ἐντυχόντα κελύει καταρῖναι τὰ ἱματῖα.

was

was thus decreed, * “ When the husband has taken the Adulterer, let it not be lawful for him to cohabit with his wife, but if he do, let him be accounted infamous.”

The design of this law was (I presume) not only to deter the wife from committing Adultery through the apprehension of being utterly cast off, but to teach the husband, that to receive again into his bosom a faithless and polluted wretch, argued a meanness of spi-

* Demosth. Orat. in Neæram. Επειδὴν ἔλοι τὸν μοιχόν, μὴ ἐξέτω τὸν ἐλόντι συνοικᾶν τῇ γυναίκι. εἰ δὲ συνοικῇ ἀτίμος ἔστω.

rit, and a want of delicacy, and would breed a suspicion that he partook with her in the wages of iniquity. However there is a wide difference between a harden'd Adulteress, and a young unexperienc'd creature surpris'd into a single act of Adultery by a common Seducer, or decoyed into it by an unsuspected Bawd. The law might have been rather too severe against the last of these ; especially if she had given all possible tokens of a thorough contrition.

* With the Germans there was
no

* Tacit Germ. xix. Publicatæ pudicitiaë

no pardon for a woman who had once lost her character. She could not get another husband by her person, her age, or her fortune. For there nobody made a jest of vice; nor was it call'd the fashion of the times to debauch and to be debauch'd."

* "When the Cumæans took a
woman

dicitiæ nulla venia. Non forma, non ætate, non opibus maritum inveniret. Nemo enim illic vitia ridet: nec corrumpere et corrumpi sæculum vocatur.

* Plut. Quæst. Græc. Των γυναι-
κῶν τὴν ἐπὶ μοιχείᾳ ληφθεῖσαν ἀγα-
γόντες εἰς ἀγορὰν ἐπὶ λίθου τινὸς ἐμφα-
νῇ παῖσι καδίξασαν· εἶτα οὕτως ἀνελί-

woman in Adultery, they brought her to the Forum, and made her stand in the sight of every body on a stone. Then setting her upon an Ass, they led her round the City. After that she was made again to stand on the same stone; and all her life-time was reckon'd infamous, and nick-nam'd the Ass-rider. And they, looking from thence on the stone as impure, anathematized it."

βαζον ἐπὶ ὄνον, καὶ τὴν πύλιν κύκλω
περὶαχθεῖσαν, ἔδει πάλιν ἐπὶ τὸν αὐ-
τὸν λίθον κατὰσῃναι, καὶ τοὺς λοιπὸν
ἄτιμον, διατελεῖν, ὀνοβάτιν προσαγο-
ρευομένην. τὸν δὲ λίθον ἀπὸ τούτου οὐ
καθαρὲν νομίζοντες ἀφωσιοῦντο.

The

The Adulterer too when taken had his share of Public Disgrace.

* “ Among the Pisidians he was led about the town sitting upon an Ass.” † “ Among the Lepreans he was carried bound through the cross-ways for three days together.” § “ Among the Gor-

* Stob. S. 42. Ἐὰν δὲ μοιχὸς αἰλῆ, περιάγεται τὴν πόλιν ἐπὶ ὄνου.

† Heraclid. de politicis. Λεπρεῖς οὖν ἂν λάβωσι μοιχὸν, περιάγουσι τρεῖς ἡμέρας τὴν πόλιν δεδεμένον.

§ Cæl. Rhodig. xxi. c. 45. Apud Gortynam adulter deprehensus ad magistratus per civitatem producebatur lana coronatus. Quare illi planè mollior approbatur natura effeminatorque.

tynians he was publickly brought through the City to the Magistrates crown'd with wool ; whereby he was plainly adjudged to be by nature softer and weaker than wool itself."

Indeed as to both the sexes it may be said, Nothing could be more just than, That she who scrupul'd not to do a shameful act in private, should be expos'd to shame in public; and that the Fool's Cap should be taken from the head of the husband, and put, where it fitted best, upon the head of the Adulterer.

S E C-

SECTION IV.

Bodily Pain was another mode of punishing Adulterers.

*“**T**HE Egyptians ordain’d that if a man had prevail’d on a married woman to commit Adultery with him, he should receive a thousand lashes.”

Tacitus speaking of Germany, informs us † “that there were
very

* Diod. Sic. i. 50. Hanov. Εἰ τις πείσας μοιχέυσαι, ῥάβδοις χιλίας πληγαῖς λαμβάνειν ἐκέλευον.

† Tac. Germ. xix. Paucissima in tam numerosâ gente adulteria, quorum

very few Adulteries in so numerous a people : the punishment for which was at hand, and allow'd to husbands. The husband having strip'd her [his wife] naked, and cut off her hair before her relations, turn'd her out of doors, and whipp'd her through every street."

* In ancient Saxony, if a married

rum poena præsens, et maritis permiffa. Accifis crinibus nudatam coram propinquis expellit domo maritus, ac per omnem vicum verbere agit.

* Du Fresne Glofs. Latin. T. 1. p. 76. In antiqua Saxonia fi mulier maritata fracto foedere matrimonij adulterium

ried woman, breaking the marriage-contract, was guilty of Adultery, sometimes, a female troop being assembled, the women led her round about, whipp'd through the streets, beating her with rods; and goading her with small wounds, sent her from town to town bloody and torn; and still there met her

ulterium perpetraverit, aliquando, congregato foemineo exercitu, flagellatam eam mulieres per pagos circumquaque ducunt, virgis cædentes; et pungentes minutis vulneribus cruentatam et laceratam de villa ad villam mittunt: et occurrunt semper novæ flagellatrices zelo pudicitiae adductæ usquequo eam aut mortuam, aut vix vivam derelinquunt.

fresh tormentors drawn by their zeal for chastity, till they left her either dead, or scarce alive.

Under this head of bodily pain I may place a kind of punishment very common at Athens.

* When they caught Adulterers in the fact, they tied them neck and heels; made bald their posteriors with hot ashes; and then thrust up their bodies radishes of the largest size. To this Catullus alludes;

Ah!

* Petit. Atticæ Leg. p. 464. Deprehensos in adulterio mœchos quadrupedes

• Ah! wretched thee, and of a hapless fate,
Whom with thy drawn-up feet, and open gate,
Mullets and Radishes shall penetrate.

For sometimes mullets were
thrust up the body as well as ra-
dishes.

This Punishment was called

des constituebant; et eis nates depila-
bant cinere calido: deinde raphanos
prægrandes in podicem immittebant.

* Ah! tum te miserum, malique fati,

Quem attractis pedibus, patente portâ,

Percurrent raphanique mugilesque.

CATULL. Ode xv. 18.

a Pluck-

† *a Plucking* or ‡ *a Radishing*. But it was a punishment for poor men only. Rich men commuted by a pecuniary mulct ; as we may gather from Aristophanes, who brings in one thus reproaching Poverty ;

§ Through thee th'Adulterer when caught is pluck'd.

Bodily pleasure, if unwarrantable, is fitly punished with bodily pain. Yet no bodily pain, though never so exquisite, can be a sufficient compensation for that pain of mind which might be given to an injur'd husband.

† Παρατίλλω.

‡ ραφανίδωσις.

§ Οὐδ' ἄλλος γε μοιὸς διὰ σέ περ παρατίλλεται.

ARISTOPH, Plut. Act i. Sc. 2.

S E C-

SECTION V.

Disfiguration was another mode of punishing Adulterers.

* **T**HE Ægyptians commanded the nose of an Adulteress to be slit: being of opinion that she who set herself off to gratify an unpardonable incontinence, should have taken from her whatever most recommended her beauty.

* Diod. Sic. i. 50. Ἐἰ τις πείσας μοιχεύσαι, ἐκέλευον τῆς γυναικὸς τὴν ῥινὰ κολοῦσθαι, ὑπολαμβάνοντες δεῖν τῆς πρὸς ἀσυγχώρητον ἀκρασίαν καλλωπιζομένης ἀφαιρᾶναι τὰ μάλιστα κοσμήματα τὴν εὐπρέπειαν.

Canute

* Canute made this decree, "If a wife, the husband being yet alive, be convicted of having an illicit commerce with any other man whatever, let both her nose and her ears be cut off."

Beauty is a gift of heaven. But when it is put to so bad a use, it is made an instrument of hell : and therefore, like a well-wrought Statue as soon as it becomes an Idol, and leads men astray, ought to be disfigured.

* Spelm. L. L. Eccl. Canuti R. c. 22. Uxor, si marito superstite, cum alio quocunque corpus miscuisse convincatur, mulieri tum nasus, tum auriculæ præcinduntur.

SEC-

SECTION VI.

Blindness was another mode of punishing Adulterers.

ZALEUCUS, Prince of Locris, made a law that the Adulterer's eyes should be put out : of whose consummate justice there is the following remarkable account. * When, according to his own

* Val. Max. vi. 5. Extern. sect. 3.
Cum filius ejus adulterij crimine damnatus secundum jus ab ipso constitutum, utroque oculo carere deberet, ac tota civitas in honorem patris poenae necessitatem adolescentulo remitteret, aliquamdiu repugnavit : ad ultimum precibus

own law, his son was to be deprived of both his eyes, being found guilty of adultery ; and the whole city, out of regard to the father, would have had the young man released from the penalty ; he for some time opposed it. At last being overcome by the intreaties of the people, having first pull'd out one of his own eyes, and then one of his sons, he left to both the use of sight. Thus he gave the law

precibus populi evictus, suo prius, deinde filij oculo eruto, usum videndi utrique reliquit. Ita debitum supplicij modum legi reddidit, æquitatis admirabili temperamento, se inter misericordem patrem et justum legislatorem partitus.

its due measure of punishment, dividing himself equally between the compassionate father and righteous Law-giver." Though, I think, he carried the former to an extravagant length.

SECTION VII.

Castration was another mode of punishing Adulterers.

* **D**IODORUS Siculus tells us, that the Egyptians "ordered a man who forced a wife that

*Diod. Sicul. i. 50. Τῷ μὲν βιασα-
μένῳ γυναῖκα ἐλευθέραν προσέταξαν ἀ-
ποκοπτεῖν τὰ αἰδοῖα, νομίσαντες τὸν
οἶτον

that was a Free-woman to be castrated: judging that such a man, by one illegal act, wrought three of the greatest evils, Insult, Corruption, and Mixture of seed." Probably for much the same reason * "Adulterers were castrated among the Spaniards."

Plautus gives a hint of this punishment in a passage of one of his *Comedies*;

τοῖτον μὲν πράξει παρὰ νόμῳ τρία τὰ
μέγιστα τῶν κακῶν ἐνηργηκεῖται, τὴν
ὑβρίν, καὶ τὴν φθοράν, καὶ τὴν τῶν τέκνων
συγχύσιν.

† Du Fresne Gloss. Lat. T. s. ad. v.
Adult. Adulteri apud Hispanos castrabantur.

MI.

* Mr. What dost thou? Sy. I do what 'tis plain Adulterers are not for the most part wont to do. Mr. What is that? Sy. I bring back my vessels whole.

It must be owned on the other hand that Domitian, † “after Titus had taken great pains to have

* Mr. Quid agis? Sy. Facio quod manifestó mœchi haud fermè solent.

Mr. Quid est? Sy. Refero vasa falva.

PLAUT. Pæn. iv. 2. 40.

† Xiphil. in vit. Domitian : Επειδὴν ὁ Τίτος ἰσχυρῶς περὶ τῆς εὐτομίας εἰ-
πουδάζει, ἀπηγόρευσεν ἐπὶ ἐκείνου ὕβρι,
μηδένα ἔτι ἐν τῇ τῶν Ρωμαίων ἀρχῇ
ἐκτέμνειν.

offenders

offenders castrated; to bring an odium on him, forbad that any man should be any longer castrated in the Roman Empire." [as I have already hinted from Martial.]

But this was a bad motive for abolishing a good law. For when Castration is used otherwise than as a punishment, or a remedy, it is contrary to humanity and civil policy. But it is highly reasonable, that a man who proud of his manhood exercises it to another's wrong, should be made less than man.

SECTION VIII.

Fine was another mode of punishing Adulterers.

* “ **A**mong the Arragonians, by their laws, if a married man or married woman was taken in Adultery, they paid three-score solids, by way of fine. And if a married man was taken in

* Du Fresne. Glos. Lat. Tom. I. p. 76. Apud Arragonenses secundum Foros antiquos, si conjugatus aut conjugata erant deprehenſi in Adulterio, ſolvebant 60 ſolidos de calumnia. Et ſi conjugatus cum conjugata erant deprehenſi in Adulterio, ſolvebant dictam calumniam duplicatam.

Adultery with a married woman, they paid the aforesaid Fine doubled."

* "In doom's-day for Kent, it appears, that the King had cognizance of an adulterous man, and the Archbishop of an adulterous woman, and that an equal fine was laid on them both."

* Du Fresne. Gloss. Lat. Tom. 1. p. 76. De Adulterio per totam Chent. [Cantium] habet Rex hominem, Archiepiscopus mulierem, &c. Alibi: Adulterium faciens 8 Sol. 4. D. emendebat homo, et foemina tantundem. Rex habet hominem Adulterum, Archiepiscopus foeminam.

* "At this day in England, and most other countries, Adulteries are punish'd by Fine." This mode falls vastly short of the end proposed. For what Fine can be adequate to so great an injury? A husband who chearfully acquiesces in this kind of satisfaction, gives the world room to suspect that he desires nothing more than to make a market of his wife's incontinence.

* Harris's Justinian. 4to. iv. p. 87.

SECTION IX.

Forfeiture was another mode of punishing Adulterers.

BY the Statute Law, † “ If a wife willingly leave her husband, and go away, and continue with her Advouterer, [Adulterer] she shall be barred for ever of action to demand her Dower that she ought to have of her husband's lands, if she be convicted thereupon: excepted that her husband willingly, and without coer-

† Anno decimo tertio Edvardi I.
A. D. 1285. c. 34.

tion of the church, reconcile her, and suffer her to live with him ; in which case she shall be restored to her action."

* Coke says, " All this is comprehended shortly in two Hexameters."

*Sponte virum fugiens mulier, et adultera facta,
Dote suâ careat, nisi sponsi sponte retracta.*

Which in about as elegant verse may be thus Englished ;

If wife elop'd Adulteress become,	}
To lose her dower let it be her doom,	
Unless the husband freely take her home.	

* Coke's Instit. L. i. Cap. 5. Of Dower.

Cambden relates this remarkable case (out of the Parliamentary records, 30 Ed. i.) * “ Sir John Camois, son of the Lord Ralph Camois, of his own free-will gave and demised his own wife, Margaret, daughter and heir of John de Gaidesden, unto Sir William Panell, Knight ; and unto the same William Panell, gave, granted, released, and quit-claimed all her goods and chattels, &c. so that neither he himself, nor any man else in his name, might make claim, or ever challenge any interest in the said Margaret, or in her goods or chattels, &c. Ey which grant,

* Camb. Brit. tit. Suffex.

when

when she demanded her dower in the manor of Torpull, part of the possessions of Sir John Camois, her first husband, there grew a memorable suit in the law, but wherein she was overthrown, and judgment pronounced, That she ought to have no dower from thence upon the statute of Westminster. 2. Because she departed from her husband, in his life-time, and lived in adultery with the aforesaid William."

Nor was this punishment unknown to the ancients, as we may gather from these verses of Homer, where Vulcan thus speaks of Mars

H 3 and

and Venus, whom he had caught together in his bed.

* Fast bound within this net they shall be laid,
Till the whole dow'r her Father has repaid;
Which for a shameless woman I put down,
His daughter, fair indeed, but wanton grown.

It is true this is a fiction: yet it points out to us the law of those ancient times in case of Adultery; which Horace confirms by the ensuing passage.

* ——— Σφαίε δόλος καὶ δεσμός ἐρύξει,

Εἰσάου μοι μάλα πάντα πατὴρ ἀποδάσει ἔσθλα

Ὅσσα εἰ ἐγλύαλιξα κινάπιδος ἔνεκα κέρης,

οἶνεκά οἱ καλὴ θυγάτηρ, ἀτὰρ ἔκ ἐχέδυμός.

Hom. Odyss. θ.

* Loudly

* Loudly cries the wife,

My jointure's lost.

FRANCIS.

But from Valerius Maximus we farther learn there was an ancient Roman law, by which the dower of a wife, convicted of Adultery, was forfeited to her husband; and that such a law at a certain time, had it not been hindered, would have been grossly abused. For *
“ when C. Titinius, of Minturnæ, attempted

* miseram se conscia clamet,

——doti deprensa.

Hon. L. 1, Sat. 2.

* Val Max. viii. c. 2, 2. Cum C.

H 4

Titinius

attempted to deprive of her dower his wife Fannia, whom he had married on purpose, being an immodest woman, and divorced upon

Titinius Minturnensis Fanniam uxorem, quam impudicam de industria duxerat, eo crimine repudiatam, dote spoliare conaretur, [C. Marius] sumptus inter eos iudex, in conspectu habita quæstione, subductum Titinium monuit, ut incepto desisteret, ac mulieri dotem redderet. Quod cum sæpius frustra fecisset, coactus ab eo sententiam pronunciare : mulierem impudiciæ ream sestertio nummo, Titinium summa totius dotis damnavit. Præfatus, idcirco se hunc judicandi modum secutum, quod liqueret sibi, Titinium patrimonio Fanniæ insidias struentem, impudicæ conjugium expetisse.

that

that account, C. Marius, being chosen arbitrator between them, took aside Titinius, and advised him to restore the woman her dower. Which after he had done several times in vain, being obliged from thence to give judgment, he mulct the woman as guilty of immodesty a festerce (i. e. about three half-pence) and Titinius the sum of her whole dower: having premised that he therefore followed this manner of judging, because it appeared plainly to him, that Titinius sought for a marriage with Fannia, an immodest woman, laying a snare for her dower."

Indeed this might have been of-

ten the case. Nay, a bad husband might, for the sake of appropriating to himself the whole or greatest part of his wife's dower, have employed a villain to draw her into an act of adultery.

But on the other side, the false generosity of some husbands, in these modern days, shewn to their divorced wives, in allowing them even more than their dower, is very imprudent. For it may increase the number of adulteries; since women, vitiously inclined, will keep a very little restraint upon themselves, when they expect an ample and independent provision upon a divorce.

The

The case indeed might be somewhat alter'd, if the wife had been provok'd to infidelity by frequent infidelities from the husband. Because there is no reason that he should be the aggressor, and she the only sufferer. For *the husband is bound to the Wife, as well as the wife is bound to the husband*; and as *the wife hath not power of her own body, but the husband, so the husband hath not power of his own body, but the wife*. Not that I would justify this retaliation of the wife; since Chastity is a duty she owes not only to her husband, but to God, her children, and herself. I would only plead, she ought not to be so
H 6 severely

severely dealt with by her husband, as if she had been false to his bed without any provocation at all.

SECTION X.

TO these several modes of punishing Adulterers, I shall add an instance or two, where the mode is not so clearly express'd, but left to the will of the injur'd person.

Mr. Petit says, That "by a law
of

* Petit. Leg. Attic. t. 4. Solonis
lege

of Solon, it was in the choice of him who had taken an Adulterer, to do with him as he thought proper. These are the words of the Law; IF ANY ONE TAKE AN ADULTERER, HE MAY DEAL BY HIM AS HE PLEAS-ETH.

A Law of the Wisigoths thus declares, † “If any man forcibly
com-

lege arbitrium erat penes eum qui adulterum deprehendisset, statuendi de adultero quicquid libuisset. Legis verba ita sunt. EAN TIS MOIXON ΛΑΒΗ, Ο, ΤΙ ΑΝ ΙΟΥΑΗΤΑΙ ΧΡΗΘΑΙ.

† LL. Wisig. iii. t. 4. r. Antiqua.

commit adultery on another man's wife, if the Adulterer himself who committed it have any lawful issue, let only himself, without his effects, be delivered up to the woman's husband. But if he have no lawful issue, to whom his substance may

Si quis uxori alienæ adulterium intulerit violenter, si ipse adulter filios habens legitimos talia perpetraverit, ipse solus absque rebus addicatur marito mulieris. Si autem filios legitimos non habuerit, quibus facultas sua deberi legitimè possit, cum omnibus rebus suis in potestatem mariti mulieris deveniat, ut in ejus potestate vindicta consistat. Quod si mulieris fuerit fortasse consensus, marito similis sit potestas de his faciendi quod placet.

be due by law, let him, with all his effects, be given into the hands of the woman's husband, that the satisfaction may lay in his breast. And if there were the consent of the woman, let the husband have the like power of doing with them both whatever he hath a mind.

CHAP. V.

ON ADULTERY.

SECTION I.

Revenge on private Adulterers.

THE many and various laws I have mentioned to have been made against Adulterers could not fail to check, in some measure, their evil courses. But very often the persons injured in so tender a point were too impatient to wait the proceedings of law, and chose to do themselves justice.

There is in the *Noctes Atticæ* of Aulus Gellius the following story.

* "M. Varro, a man of much credit for learning, and grave in his deportment, says, that Sallust was taken in Adultery by Annius Milo, and well beaten with thongs, and dismissed on paying a sum of money."

† Valerius Maximus gives, (as he

* Gell. Noct. Att. xvii. 18. M. Varro in litteris atque vita fide homo multa et gravis. C. Sallustium in adulterio deprensum ab Annio Milone bene cæsum dicit, et quum dedisset pecuniam, dimissum.

† Val. Max. vi. c. 1. § 13. Sed ut eos

he tells us) a short account of some Romans, who in revenge for the wrong done to their bed, made use of their own private resentment instead of the public law. Sempronius Musca beat with scourges C. Gallius, whom he caught in Adultery with his wife. — C. Memmius beat with cords L. Octavius,

eos quoque qui in vindicanda pudicitia dolore suo pro publica lege usi sunt, strictim percurram; Sempronius Musca C. Gallium deprehensum in adulterio flagellis cecidit. C. Memmius L. Octavium similiter deprehensum nervis contudit: Carbo Accienus a Vibieno, item Pontius a P. Cernio deprehensi castrati sunt. Quibus iræ suæ indulgisse fraudi non fuit.

whom

whom he caught in the like manner.—Carbo Accienus, who was caught by Vibienus, and Pontius by P. Cernius, were emasculated. And all these came to no trouble for having indulged their passion.

A little after he relates a story of a foreigner worthy our notice.*

“The army of the Gallo-Greci-

* Ib. extern. 2. Exercitu et copijs Gallogræcorum a Cn. Manlio consule in Olympo monte ex parte deletis, ex parte captis, Oriagontis reguli uxor miræ pulchritudinis, a centurione, cui custodienda tradita erat, stuprum pati coacta. Postquam ventum est in eum locum in quem consulis jussu Centurio missus nuntio, necessarios

ans being partly cut off, and partly taken by C. Manlius, the consul, on Mount Olympus, a woman of admirable beauty, the wife of Oriagontes, a petty king, was forced to suffer Adultery by a centurion, to whose custody she was committed. After they came to the place whither, by the consul's order, the centurion had directed the wo-

cessarios mulieris pretium, quo eam redimerent, afferre jusserat, aurum expendente centurione, et in ejus pondus animo oculisque intento, Gallogræcis lingua gentis suæ imperavit, ut eum occiderent. Interfecti deinde caput abscissum manibus retinens ad conjugem venit; abjectoque ante pedes ejus & injuriæ & ultionis suæ ordinem exposuit.

man's.

man's relations to bring a ransom for her; while the centurion was counting the money, with his eyes and thoughts fixt on the weight of it, she bad the Gallo-Grecians, in their country language, to slay him. Then she came to her husband, holding in her hands the head of the slain that was cut off, and having thrown it down before his feet, declared the process of her injury and revenge."

SECTION II.

Examples from the Poets.

NOR are the poets silent in this particular. Horace, by way of prophecy, ascertains the death of Paris for his adultery.

* Though

* Though you escape the noise of fight,
Nor Ajax can o'ertake thy flight,
Yet shalt thou, infamous through lust,
Soil those adult'rous hairs in dust.

FRANCIS.

Martial warns a youth who took liberties with another man's wife, presuming upon the edict of Domitian against castration; and intimates, that a husband, stung with jealousy, would shew but little regard to Edicts.

* Vitabis strepitumque, et celerem sequi
Ajacem, tamen heu ! ferus adulteros
Crines pulvere collines.

HOR. I. Od. 15. v. 18.

* Hyllas

* Hyllus, you kiss an armed tribune's wife,

Nor dread the future vengeance of his knife.

Wo to thee, stripling! thou'lt be castrated,

While thus you wanton in another's bed.

You'll say the knife's illegal, it may kill:

Pray is it legal to do what you will?

Horace again, in order to persuade men not to commit this crime, speaks in the following manner;

* Uxorem armati puer Hylle, tribuni,

Supplicium facti, nec puer Hylle, times.

Væ tibi! dum ludis, castrabere: jam mihi dices.

Non licet hoc: Quid? tu quod facis, Hylle, licet?

MART. ad Hyllum ii. 60.

* All

* All ye that with some dire mishap may wait
 Th' adult'rous tribe, attend while I relate
 What dangers and disasters they sustain;
 How few their pleasures, and how mixt with
 pain.

A desp'rate leap one wretched caitiff tries;
 Torn by the flagrant lash another dies;

* Audire est operæ pretium procedere recte
 Qui mœchis non vultis, ut omni parte laborent;
 Utque illis multo corrupta dolore voluptas,
 Atque hæc rara, cadat dura inter sæpe pericla.
 Hic se præcipitem tecto dedit; ille flagellis
 Ad mortem cæsus; fugiens hic decedit acrem
 Prædonum in turbam; dedit hic pro corpore nummos;
 Hunc præminxerunt calones, quin etiam illud
 Accidit ut cuidam testes caudamque salacem
 Demeret ferrum.

HOR. i. Sat. 2. v. 37.

Some

Some are by robbers plunder'd, as they fly ;
 Others with gold a wretched safety buy ;
 On others scullions throw their chamber-
 lye.

Nor seldom do they feel with keener smart
 The husband's vengeance on th' offending
 part."

FRANCIS.

And Juvenal delivers himself in
 much the same strain, when he
 exposes a mother's folly in priding
 herself on her son's beauty ;

* " Adult'ers are with dangers round beset ;
 Born under Mars, they can't escape the net ;

And

* Fiet adulter

Publicus, et pœnas metuet quascunque maritus

I

Exigit

And from revengeful husbands oft have tried
Worse handling than severest laws provide.
One stabs, one slashes, &c."

DRYDEN.

Virgil gives us a frightful image of an adulterer's sufferings in the person of Deiphobus, who after the death of Paris had taken to his bed Helen the wife of Menelaus. He supposes that Eneas met Deiphobus in the shades below,

Exigit iratus : nec erit felicior astro

Martis, ut in laqueos nunquam incidat : exigit autem

Interdum ille dolor, plus quam lex ulla dolori

Concessit; necat hic ferro, secat ille cruentis

Verberibus, &c.

Juv. Sat. x. v. 311.

and in the condition wherein he died.

* Here Priam's son, Deiphobus, he found,
Whose face and limbs were one continued
wound.

Dishonest, with lopp'd arms, the youth appears,
Spoil'd of his nose, and shorten'd of his ears.

DRYDEN.

* Atque hic Priamidem laniatum corpore toto
Deiphobum videt, et lacerum crudeliter ora,
Ora, manusque ambas, populataque tempora raptis
Auribus, et truncas inhoneste vulnere nares.

VIRG. Æn. vi. 494.

SECTION III.

Revenge on Sovereigns.

BUT it sometimes happened that offenders of this sort, though they were not only above the reach of the law, but one should have thought even above private revenge, were overtaken by it. Thus,

* Molurus was slain by Hyettus,

* Pausan. de Bæot. Han. 1613. Παρά τὸν Ὀρχομενὸν βασιλευόντα Υἱτῖος ἀφίκετο ἐξ Ἀργος, φεύγων ἐπὶ τῷ Μολύρῳ φόνῳ τῷ Ἀρίσταντος, ὃντινα ἀπέκτεινεν ἐπὶ γυναίκεϊ ἐλὼν γαμετῇ.

who

who found him in an unlawful commerce with his wife.

* Nero was beaten almost to death by a senator, for being too familiar with his wife in a midnight frolic about the streets.—

† And Victorinus was killed by a public notary whose wife he had debauched.

But the revenge of Maximus

* Suet. Ner. c. 26. A quovis lativio cujus uxorem attrectaverat, prope ad necem cæsus.

† Trib. Poll. Var. ii. p. 265. A quodam actuario cujus uxorem stupraverat, percussus.

on Valentinian was very extraordinary. * Maximus was a senator,
and

* Procop. de bell. Vandal. i. Inter Senatores erat Maximus, domo Romanus. Erat ei uxor cordata non minus quam forma excellenti: cujus cupidine flagrans Valentinianus, nec facile potiundæ viam reperiens, rem sceleratam excogitavit effecitque. Cum Maximo in palatium advocato alea ludens, victor, pecuniæ, de qua certabatur pignus annulum ab eo accepit; cum clam mittit ad ipsius uxorem, ut signum à viro missum, quo conspecto non moraretur venire salutatum Augustam Eudoxiam. Illa conspecto annulo nihil addubitans quin a viro ea mandata venirent, lectica deferri se jubet: sed ubi in aulam venerat, ab hominibus in id dispositis,
in

and by family a Roman. He had a wife as discreet as she was beautiful: with the love of whom Valentinian being inflamed, but not easily finding an opportunity of enjoying her, contrived and put in execution a wicked device.

in conclave abducitur, quod a mulierum habitaculo longe satis aberat. Quo veniens Valentinianus stuprum ei vi infert. Post acceptam injuriam, domum viri reversa, lachrymis, omnibusque signis, dolorem testans animi, dira precatur Maximo, ut qui tanto malo causam dedisset. His graviter commotus et ipse in Imperatoris exitium intendit animum.—Post id Imperatorem interemit Maximus, sibi que et imperium cepit.

Playing at dice with Maximus, whom he had called to the palace, and being the winner, he took of him a ring for a pledge of the money they played for. This he sent privately to his wife, as a token that at the sight of it she must not delay coming to pay a visit to the empress Eudoxia. She having seen the ring, nothing doubting but that those orders came from her husband, had herself conveyed thither in a sedan. But when she entered the hall, she was carried off by men, posted for that purpose, into a chamber far enough from the womens apartment. Thither Valentinian went, and committed a rape upon her.

After

After receiving this outrage, being returned to her husband's house, testifying by tears and all other marks the anguish of her soul, she poured out curses on Maximus, as he who had given occasion for so great an offence. He too being deeply affected with it, resolved on the Emperor's destruction.—Afterwards Maximus slew the Emperor, and took the empire into his own hands.

But according to the sentiments of my Lord Rochester, this was not sufficient amends for the injury done to his wife, and his friend Ætius. For at the close of his

I 5 tragedy

tragedy of Valentinian, he makes
him thus harangue the soldiers ;

Lead me to death or empire, which you please,
For both are equal to a ruin'd man.

But, fellow-foldiers, if ye are my friends,
Bring me to death, that I may there find peace,
Since empire is too poor to make amends
For half the losses I have undergone ;

A true friend, and a tender faithful wife,
The two blest miracles of human life.

Go now and seek new worlds to add to this ;
Search heaven for blessings to enrich the gift ;
Bring power and pleasure on the wings of fame ;
And heap this treasure upon Maximus ;
You'll make a great man, not a happy one.

Sorrows so just as mine must never end,
For my love ravish'd, and my murder'd friend.

ROCHESTER'S Valentinian.

S E C-

SECTION IV.

Recourse to Harlots.

THESE and such-like were the revenges taken on Adulterers. And though some might have escaped them, yet the fear they might not, must have withheld many considerate persons from committing so great a villainy. Horace introduces one Philodemus resolving to confine his amours to a single woman ;

*Then I'll fear nothing, for no harm will come;
No jealous husband is returning home ;

His

* Nec vereor ne dum vir rure recurrat ;

Janua frangatur ; latret canis ; undique magno

His doors broke ope; by dogs the servants rais'd;
 While she, poor wretch ! starts from mine arms
 amaz'd,
 And with a guilty shriek, cries, I'm undone !
 Oh ! now I'm caught, and all my jointure's
 gone !
 (For that's the punishment of married whores)
 While I, poor guilty rogue, sneak out of doors,
 Unbutton'd and bare-foot, to shun the shame,
 And save my purse, my bones, or else my fame.
 'Tis sad, ask Fabius else, to be surpriz'd.

CREECH.

*Pulsa domus strepitu resonet; væ pallida lecto.
 Desiliat mulier, miseram se conscia clamat;
 Cruribus hæc metuat, doti deprensa, egomet mi.
 Discinctâ tunicâ fugiendum est, ac pede nudo,
 Ne nummi pereant, aut pyga, aut denique fama.
 Deprendi miserum est: Fabio vel iudice, vincam.*

HOR, I. Sat. 2. v. 127.

How-

However our Poet, in this very
satire, points out the evils men
fall into by an illicit commerce
even with single women ;

* As once Marfæus, whom a jilting whore,
An actress has undone, and made him poor.
Methinks, said he, I lead a moral life,
I never meddle with another's wife ;
No ; but with actresses, and whores —

CREECH.

* Ut quondam Marfæus amator Originis ille,
Qui patrium mimæ donat fundumque, laremque,
Nil fuerit mî, inquit, cum uxoribus unquam alienis,
Verum est cum mîmis et cum meretricibus —

HOR. 1. Sat. 2. v. 55.

S E C -

SECTION V.

Mischiefs to the innocent and the injured.

WERE the evil consequences of Adultery to fall on the head of the Adulterer only, it would be no great matter: but sometimes they fall on the head of the innocent, nay, even of the injured person. History, sacred and profane, will furnish us with examples of this sort.

* Joseph, a young man, virtuous in himself, and faithful to his

* Gen. xxxix. 7, &c.

master,

master, was for his refusal to gratify the inclinations of his master's wife, cast into prison : and had not Providence interfered for the preservation of himself and of Israel, would, in all probability, have been put to death.

* Uriah was guilty of no other fault than of having a beautiful wife. Yet on that very account he was expos'd to the heat of the battle, and slain by the order of his master, who had before taken her from him, and wanted her wholly to himself.

* 2 Sam. xi. 2, &c.

Hip-

Hippolytus not listening to his mother-in-law's solicitations to commit Adultery and Incest with her, was, through her means, brought to an untimely death.

Bellerophon would not comply with the desire of Sthenobœa, the wife of Prætus, to break the laws of hospitality, by an adulterous intercourse with her. She therefore accused him to her husband of an attempt upon her person, and had him exposed to great trials which he narrowly escaped.

Ovid makes Hippolytus tell his own story in these lines.

Once

* Once Phædra, when in vain
 She tempted me my father's bed to stain,
 On me this fland'rous accusation threw,
 That I would that which she herself would do;
 Either through fear of a discovery,
 Or through a slighted woman's enmity;
 My father drove me guiltless out of town,
 And a foe's curse upon my head brought down.

And Apollodorus has thus re-
 counted the story of Bellerophon.

Me. Pasiphaeia quondam

Tentatum frustra patrium temerare cubile,
 Quod voluit, finxit voluisse, et crimine verso,
 Judiciæ metu magis, offensæ repulsæ
 Arguit; immeritumque pater projecit ab urbe
 Hostilique caput prece detestatur euntis.

OVID Met. xv. Fab. 45.

Belle-

Bellerophon*, the son of Glaucus, coming to Prætus, in Argos, his wife Sthenobœa, fell in love with him, and made him overtures of copulation. But he refusing it, she told Prætus that Bellerophon had tampered with her to debauch her.

* Apollod. ii. Βελλεροφόντης ὁ Γλαυκῆς εἰς Ἄργος πρὸς Πρῶιτον ἔλθων αὐτῇ θυγῆ Σθενέβοια ἔρωτα ἵσχει, καὶ προσπέμπει λόγους περὶ συνουσίας. ταῦτα δὲ ἀπαρνημένη λέγει πρὸς Πρῶιτον, ὅτι Βελλεροφόντης αὐτῇ περὶ φθορᾶς προσεπέμψατο λόγους. Πρῶιτος δὲ πιστεύσας ἔδοκεν ἐπιτολὰς αὐτῷ πρὸς Ἰοβᾶτην τὸν πενταεὶς κομίσαι· ἐν αἷς ἐνεγεγραπτο Βελλεροφόντην ἀποκτείνειν. Ἰοβᾶτης δὲ ἐπιγνὼς, ἔπειταξεν αὐτῷ, Χίμαιραν κτείνειν,

her. Prætus believing it gave him a letter to carry to Iobates, his wife's father, wherein it was written to put Bellerophon to death. Iobates having receiv'd it, order'd him to kill the Chimæra, thinking he would be destroy'd by the monster, &c."

But Juvenal hints at the cases of both the last Heroes in virtue, when he argues with a Mother, whom he supposes to assert, that a chaste young man runs no hazard from his person.

νομίζων αὐτὸν ὑπὸ τῇ Σηπίᾳ διαφασχέ-
σεναι, &c.

Did

* Did it not cost the modest youth his life,
 Who shunn'd th'embraces of his father's wife?
 And was not t'other stripling forc'd to fly,
 Who coldly did his patron's queen deny,
 And pleaded laws of hospitality?

The ladies charg'd them home, and turn'd the
 tale;

With shame they redd'ned, and with spite
 grew pale.

'Tis dang'rous to deny the longing dame,
 Her hatred's fiercest when spurr'd on by shame,

DRYDEN.

* Quid profuit olim

Hippolyto grave propositum? quid Bellerophonti?

Erubuit nempe hæc, ceu fastidita repulsâ:

Nec Sthenobœa minus quam Cressa excanduit, et se

Concussere ambæ. Mulier sævissima tunc est

Cum stimulos odio pudor admovet.

Juv. Sat. x. v. 324.

Our

Our Poet goes on and describes
the fatal dilemma of Silius, whom
Messalina, the Emperor Clau-
dius's wife, resolv'd to marry ;

* Now Silius wants thy counsel, give advice :
Wed Cæsar's wife, or die ; the choice is nice.

Her

* Elige quidnam

Suadendum esse putes, cui nubere Cæsar's uxor

Destinat : optimus hic et formosissimus idem

Gentis Patriciæ rapitur miser extinguendus

Messalinæ oculis.

Quid placeat, dic :

Ni parere velis, pereundum est ante lucernas :

Si scelus admittas, dabitur mora parvula, dum res

Nota urbi et populo, contingat principis aures.

Dedecus ille domûs sciet ultimus ; interea tu

Obsequere imperio, si tanti est vita dierum

Pau-

Her comet-eyes she darts on ev'ry grace,
 And takes a fatal liking to his face.
 In this moot case your judgment : to refuse
 Is present death, besides the night you lose.
 If you consent, 'tis hardly worth your pain,
 A day or two of anxious life you gain :
 Till loud reports through all the town have past,
 And reach the prince, for cuckolds hear the last.
 Indulge thy pleasure, youth, and take thy
 swing,
 For not to take, is but the self-same thing.
 Inevitable death before thee lies;
 But looks more kindly through a lady's eyes.

DRYDEN.

To these examples I shall here

Paucorum: quicquid melius leviusque putâris,

Præbenda est gladio pulchra hæc et candida cervix.

Juv. Sat. x. v. 329.

subjoin

subjoin another which happen'd in the reign of James the first, related by Wilfon a cotemporary historian.

*“Sir Thomas Overbury was not only the Counsellor of Carr Viscount Rochester, the King's Favourite, but was the master of his secrets. However he oppos'd Carr's intentions of marriage with the Countess of Essex, as an infamous action while her husband was living, from whom she had been divorc'd through a false pretence of impotency. This enrag'd Carr,

* Wilfon. Life of James the first.

and

and drew on Overbury all the malice of an exasperated woman. A plot therefore was laid to destroy him. By Carr's public recommendation of him to the King he was appointed an ambassador: which office he had been advised to accept, and was afterwards pressed by his Patron to refuse. This was done; but Carr incensed the King against Overbury for this very refusal: which open'd a way for him to the Tower, a place of privacy, and proper for the practice of poison: which was at last compleated by the means of Mrs. Turner and her accomplices, and with the privity of Sir
 Jervis

Jervis Ellowis, Warden of the
Tower."

Besides these several examples which have been common to all ages, it affords matter of no small concern to reflect, that numberless have been the deaths of husbands by the hands of Adulterers, since duelling came into fashion. It is certainly a most egregious folly in a man thus injur'd to put his life upon an equal lay with the villain's who has injur'd him, and to give him an opportunity of injuring him a second time. The best plea he can make, is, that the law has not provided a satisfaction

K

pro-

proportionate to the injury: so that he is under a necessity of demanding it himself, to the hazard of his own person. However weak this plea may be, yet what a pity is it that many a brave man shall be lost to a nation through a punctilio of honour, from a defect of the law in this particular!

SECTION VI.

Mischief to whole Nations.

FROM what has been said hitherto in this Chapter, we may perceive how extensive the mischief is of this diabolical crime.

It

It reaches not only him who commits it, but also him who refuses to commit it ; and him who advises not to commit it ; and him to whose wrong it has been committed. But it did not always stop at individuals : it was sometimes transfer'd to whole Nations, as Horace observes :

* The woes,

Which various and unnumber'd rose

* Hoc fonte derivata clades

In patriam populumque fluxit.

Hor. iii. Od. 6. v. 29.

K 2

From

From this polluted fountain-head,
O'er Rome and o'er the nations spread.

FRANCIS.

* We have an account from Homer, who is reputed to be the earliest Heathen writer extant, that Adultery was the cause of a long-continued war between the Grecians and Trojans, which ended in the destruction of Priam, his Family, and his Kingdom. Horace, the Poet just now quoted, speaks of this catastrophe in a prophetic strain, applying himself to Paris, as it were in the person of Nereus.

* Hom. Iliad.

* Thou

* Thou carriest home
Thine own, false youth, and country's doom;
Whom Greeks shall fetch again
With all their force; and all combine
To break that wicked match of thine,
And Priam's ancient reign."

CREECH.

And again,

† "Achilles' fleet with long delay

Vengeful protracts the fatal day:

But

* Mala ducis avi domum,

Quam multo repetet Græcia milite,

Conjurata tuas rumpere nuptias,

Et regnum Priami vetus.

HOR. I. Od. 15. v. 5.

† Iracunda diem præferet Ilio,

Matronisque Phrygum classis Achillei,

But when ten rolling years expire,

Thy Troy shall blaze in Grecian fire."

FRANCIS.

This crime occasioned a great Revolution in the Roman State. The Story is so interesting in this libidinous Age and Nation, that I hope the Reader will excuse its length. * * Sextus Tarquinius was possess'd

Per certas hyemes urit Achaicus

Ignis Iliacas domos.

HOR. I. Od. 15. v. 33.

* Liv. i. 57. Sextum Tarquinium mala libido Lucretiae per vim stuprandae cepit. Tum forma tum spectata castitas incitat—Inscio Collatino cum

possess'd with an evil desire of ravishing Lucretia. Both her beauty and her approv'd virtue spurr'd him on.—Unknown to Collatinus, with one attendant he came to Collatium : where, being kindly entertain'd by them who were ignorant of his design, when after

Sup-

cum comite uno Collatium venit : ubi exceptus benigne ab ignaris consilij, quum post cœnam in hospitale cubiculum deductus esset, amore ardens, postquam satis omnia tuta circa, sopitique omnes videbantur, stricto gladio ad dormientem Lucretiam venit, sinistrâ manu mulieris pectore oppresso, *Tace, Lucretia*, inquit, *Sextus Tarquinius sum : ferrum in manu est ; moriere si eniferis vocem.* Quam pavida a somno mulier, nullam

Supper he was led to the bed-chamber set apart for Visitors, burning with lust ; as soon as all things around appear'd safe enough, and all the House fast asleep, he came with his sword drawn to Lucretia as she was sleeping : and pressing down her stomach with his left hand,

nullam opem, prope mortem imminentem videret ; tum Tarquinius fateri amorem, orare, miscere precibus minas, versare in omnes partes muliebrem animum. Ubi obstinatum videbat, et ne mortis quidem metu inclinari, addit ad metum dedecus : cum mortua jugulatum servum nudum positurum ait, ut in sordido adulterio necata dicatur. Quo terrore quum vixisset obstinatum pudicitiam velut victrix

hand, said, *Hold your tongue, Lucretia, I am Sextus Tarquinius : a sword is in my hand ; you die if you cry out.* When the Woman frightened out of her sleep saw no help, and death hanging over her, then Tarquinius confess'd his love, prayed,

trix libido, profectusque inde Tarquinius ferox expugnato decore muliebri esset, Lucretia mæsta tanto malo, nuncium Roman eundum ad patrem, Ardeamque ad virum mittit, ut cum singulis fidelibus amicis veniant : ita facto, maturatoque opus esse ; rem atrocem incidisse. Sp. Lucretius cum P. Valerio Volesi filio, Collatinus cum L. Junio Bruto venit, cum quo forte Romam rediens ab nuncio uxoris erat

K 5

con-

prayed, mingled threats with intreaties, and winded every way her female heart. When he found her resolved, and not to be bent even by the fear of death, to fear he added shame. He said he would put a naked Slave with his throat cut

conventus. Lucretiam sedentem mæstam in cubiculo inveniunt. Adventu suorum lachrymæ obortæ: quærentique viro satisne salvæ? *Minime*, inquit, *quid enim salvi est mulieri amissâ pudicitia?* *Vestigia viri alieni, Collatine, in lecto sunt tuo. Cæterum corpus est tantum violatum, animus est insons. Mors testis erit. Sed date dextras fidemque haud impune adultero fore. Sextus est Tarquinius qui hostis pro hospite priore* nocte

cut by the side of her dead body,
 that it might be reported she was
 kill'd in base adultery. By the
 terror of which, when victorious
 lust had as it were overcome stub-
 born Chastity, and Tarquinius had
 departed thence, proud of having
 subdued a woman's honour, Lu-
 cretia griev'd at such an outrage,
 sent a messenger to her Father at
 Rome,

*nocte vi armatus mihi sibique, si vos
 viri estis, pestiferum hinc abstulit gau-
 dium. Dant ordine omnes fidem:
 consolantur ægram animi, avertendo
 noxam ab coacta in auctorem delicti,
 mentem peccare, non corpus: et unde
 consilium abfuerit, culpam abesse. Vos,
 inquit, videretis quid illi debeatur: ego me,*

Rome, and to her Husband at Ardea; that they should come, each with a trusty friend, intimating there was need of it, and that soon, for that a horrid affair had fallen out. Spurius Lucretius came with Publius Valerius the son of Volesus, and Collatinus with Lucius Junius Brutus, along with whom returning to Rome, he

*eis peccato absolvo, supplicio non libero;
nec ulla deinde impudica Lucretiae ex-
emplo vivet. Cultrum, quem sub veste
abditum habebat, eum in corde defi-
git: prolapsaque in vulnus moribun-
da cecidit. Conclamant vir pater-
que.*

Brutus, illis luctu occupatis, en-
trum

he was met by his wife's messenger. They found Lucretia sitting in her chamber sorrowful. At the arrival of her friends she burst out into tears : and her husband asking her if all was safe, she answered, *No ; for what can be safe to a woman who has lost her virtue ? Collatine, the footsteps of a stranger are in your bed. However my body alone is polluted, my*
soul

trum ex vulnere Lucretiæ extractum manantem cruore præ se tenens, *Per hunc, inquit, castissimum ante regiam injuriam sanguinem juro, vosque, Di, testes facio, me, Tarquinius Superbum, cum scelerata conjuge, et omni liberorum stirpe, ferro, igni, quacunque hinc vi possim,*

soul is spotless. Death shall be my witness. But give me your hands and word, that the Adulterer shall not go unpunish'd. It was Sextus Tarquinius, who, as an enemy instead of a guest, by main force carried off hence a joy fatal to me, and to himself if ye be men. They all in order gave their word; comforted her sick mind; turning the guilt

*possim, exsequuturum; nec illos, nec alium
 quenquam regnare Romæ passurum. Cul-
 trum deinde Collatino tradit, inde Lu-
 cretio ac Valerio stupentibus miraculo
 rei, unde novum in Bruti pectore in-
 genium. Ut præceptum erat, jurant,
 totique ab luctu versi in iram, Brutum
 jam inde ad expugnandum regem vo-
 cantem sequuntur ducem.*

from

from her who was forc'd, on the Author of the crime ; for that it is the soul which sins, not the body ; and where is no design, there is no fault. *You*, replied she, *may look to it as to what he deserves. I, though I clear myself of the offence, do not release myself from the penalty ; nor shall any polluted woman henceforth live by the example of Lucretia.* Then she plunged into her heart a knife she had hid under her garment : and falling upon the wound she drop'd down dead. Her husband and her father cried out together.

Brutus, while they were taken up with lamentation, holding up
before

before him the knife he had drawn from Lucretia's wound, all wet with gore, said, *By this blood immaculate before the royal abuse of it, I swear, and you, O ye Gods, I call to witness, that I will pursue the proud Tarquin, with his accursed wife, and their whole race of children, by sword and fire, and whatever power I can; nor will I suffer them or any other to reign at Rome.* Then he delivered the knife to Collatinus, afterwards to Lucretius and Valerius, who were astonished at the strangeness of the thing, whence this new spirit arose in the breast of Brutus. They swore, as was directed, and all of them

them being turned from mourning into fury, from thence followed Brutus their leader, inviting them to drive out the king. The consequence of all was that this act of royal adultery proved the downfall of the kingly power at Rome.

But to shew farther how mischievous the insolence of lust, even in the great, sometimes proves to whole Nations, I shall bring two instances of later date, where government, if it were not changed as to its form, yet fell thereby into the hands of strangers.

In

* In the time of Roderic, King of Spain, who came to the crown in opposition to the sons of Vitiza the preceding king, the district of Tangier was in the possession of Spain. This district had been made a province to Spain by the Emperor Constantine, and continued under the Spaniards, after they had expelled the Romans. Julianus was governor of it under Roderic: but had been engaged in the interest of Vitiza's sons, who laid claim to the crown by the right of succession. Rode-

* Heylin. Cosmog. 249.

ric sent Julianus in an embassy to the Moors, and taking advantage of his absence, debauched Cava, his daughter, some say his wife, upon the presumption of which, chiefly, I insert this piece of history. This treacherous act raised such indignation in Julianus, that having gained no small credit with the Moors, he excited them to come over into Spain. They, under the conduct of Musa and Tariffe, came, conquered, and reduced that province under the Mahometan empire.

There is an occurrence of the like sort mentioned in the history of

of Ireland. * Dermot Mac Murgh one of the Irish Pentarchie, having stolen away the wife of Rhoderic Conner, king of Connaught, raised in Rhoderic a desire of revenge. Dermot was pursued so closely as to be obliged to flee from place to place, and at last to quit his kingdom : for his vices had unsettled his subjects in their affections towards him. Thus despairing of aid from home, his last deliberations were to draw in foreign aid. Accordingly Robert Fitzstephen, with a competent number of soldiers, landed in Ireland, took Wa-

* Speed. Hist. p. 472. § 47.

terford, and sacrificed the inhabitants that were in arms to the fury of Dermot. The event was, that after the conquest of Dublin the English were established in Ireland.

C H A P. VI.

O N D I V O R C E.

AFTER all the punishments inflicted on Adulterers, even death itself, the Party injur'd might not have receiv'd full satisfaction. For if the Adulterers remain'd alive, she might still be false to her husband's bed, though not with the first, yet with a second and a third: the bare apprehension of which might create in him no small uneasiness. Divorce there-

fore was a very seasonable remedy
in such a case.

S E C T I O N I.

Its Definition.

Divorce was a Dissolution of
Marriage according to the
meaning of the Ancients. And
though Divortium and Repudium
in the Latin Tongue are strictly
speaking different in law, yet they
are often used indiscriminately in
history. Strictly speaking, * Di-
vortium is between Persons ac-
tually

* Dig. 1. tit. 16. 101. Divortium
inter

tually married ; Repudium between Persons only betroth'd. If the Husband divorces his wife, it is called, A Putting away ; if the wife her husband, it is called, A Leaving.

SECTION II.

To whom allowed.

AMONG the Jews a power of divorcing was not allowed to women. * Salome, the wife

inter virum et uxorem fieri dicitur. Repudium vero sponsæ remitti videtur : quod et in uxoris personam abfurde cadit.

* Joseph. Antiq. Judaic. xv. c. 7. §

wife of Costobarus, was the first who usurped that power, contrary to ancient custom. Neither would the Greeks, at the beginning, allow it. This Euripides gives us a hint of in his Medea, whom he brings in thus complaining ;

* Of all that live and have a thinking mind,
The most unhappy, sure, is woman-kind.

We

10. Χρόνος δὲ διελθόντος ἐπεὶ συνέβη τὴν
Σαλώμην ἑτάσασαι πρὸς Κοσδόβαρον,
πέμπει μὲν εὐθὺς αὐτῷ γραμμάτιον,
ἀπολυομένη τὸν γάμον, ἔκκατα τὰς
Ἰουδαίους νόμους.

* Πάντων δ' ὅς ἐς ἑμψυχα, καὶ γνώμην ἔχει,

Γυνῆκες ἐσμὲν ἀθλιώτατον φύλον.

[A]

We buy a husband with an ample dower,
And to a tyrant sell our native power.
But of this ill that trial is the worst,
If in our choice we happen to be curst.
For good or bad he must our lord remain,
Divorce in women is a woful stain.

Even among the Romans, at
first, women were forbidden to
divorce themselves. For * Romulus
made

Ας πρῶτα μὲν χρημάτων ὑπερβολῇ
Πόσιν πρίασθαι, δεσπότην τε σώματος
λαβεῖν. καὶ γὰρ τὸ δ' ἔτ' ἅγιον κακὸν,
Καὶ τὸ δ' ἀγῶν μέγιστος ἢ κακὸν λαβεῖν
ἢ χρῆσθον. καὶ γὰρ ευκλεῖς ἀπαλλαγαὶ
Γυναιξίν, καὶ οἷον τ' ἀνῆνασθαι πόσιν.

EURIP. Medea. v. 230.

† Plutarch. in Romulo. "Ἐθνηκε δ' ἐκ
νόμους

made a law [which Plutarch thinks a very severe one] forbidding a wife to divorce herself from her husband. Plautus brings in a woman charging the men with gross partiality ;

* Troth, when compar'd to men poor women
are,

Under a law both cruel and unfair,

νόμους τινὰς ὧν σφοδρὸς μὲν ἔστιν ὁ γυ-
ναικὶ μὴ διδοῦς ἀπολείπειν ἄνδρα.

* *Æcastor lege dura vivunt mulieres*

Multoque iniquiore, miseræ quam viri.

Nam si vir scortum duxit, clam uxorem suam,

Id si rescivit uxor, impune est viro :

Uxor viro si clam egressa est foras,

Viro fit causa, exigitur matrimonio.

PLAUT. *Mercat.* iv. 6.

A husband keeps a wench ; if he be caught
By his good wife, that action goes for nought.
If she unknown to him but step abroad,
A suit's commenc'd, divorce must be the word.

However in later times, especially at Rome, divorce was allowable to women. This we may learn from a passage of Juvenal,

* I often stopp'd her going to forsake
Thee, her first husband, and another take,
To sign new tables and the old ones break. }

* Quoque surgientem sæpe puellam

Amplexu rapui ; tabulas fregerat, et jam

Signabat.

Juv. Sat. ix. 74.

And

And from one of Martial;

* On new-year's day, you, Proculeia, leave
Your old man, and his own you bid him have.

† And from another in Plautus;

ALEM. Farewel, keep your own goods, re-
store me mine.

* Mense novo Jani, veterem, Proculeja, maritum
Deferis, atque jubes res sibi habere suas.

MART. X. Ep. 41.

* ALEM. Valeas, tibi habcas res tuas,
Redde meas.

PLAUT. Amph. iii. 2. 47.

SECTION III.

Its Method.

AMONG the Jews the method of the husband's divorcing his wife was by giving her a bill of divorce: the form of which bill is to be found in Selden's works, who has translated it out of the original into Latin, whereof I shall give an abstract.

* I N, &c. of mine own accord,
and

* Seld. Uxor Hebraica. iii. 24. Ego N. &c. ultrô, atque ex animi sententia, et sine coactione dimitto, relinquo, repudio te N. &c. quæ antea usque in hoc monumentum uxor mea fuisti:

and by the resolution of mine own mind, and without compulsion, dismiss, relinquish, and divorce thee, N, &c. who hast been hitherto my wife : so that thou mayest be free ; and that thou mayest have power to depart, and to marry whomsoever thou wilt, &c.

Among the Romans the method of the husband's divorcing the wife was this. * First seven citizens of
ripe

fuiſti : adeo ut ſis libera, et tibi ſit potestas abeundi, et cuicunque velis nubendi.

* Pitisc. l. ix. ff. de divort. *Lege Julia* nullum ratum est, nisi septem ci-

ripe age were to be present. * Then was pronounced this form of words, Take your own effects to yourself. † Then the wife was commanded to deliver up the keys she received at the beginning of the marriage, and was turned out of doors.

vibus Romanis puberibus adhibitis præter libertum ejus qui divortium faciet.

* Fragm. xii. Tab. § 26. de Jure privato. Ut sic conjugibus alter alteri nuntium mitteret, eumque suas res sibi habere juberet, divortium esset.

† Vita St. Adulberti, in 12. Tab. Si vir ab uxore divortit ei claves admittito.

Part

Part of this method Juvenal attests by these words;

* Then shall the Freedman say,
Go pack up thy small bundles, and away.

And Martial by these;

† Wife, get you gone, or else think fit
To all my manners to submit.

And Plautus by these in his *Cassina*;

* Collige sarcinulas, Libertus dicet, et abi.

Juv. Sat. vi. v. 143.

† Uxor, vade foras, aut moribus utere nostris.

MART. xi. Ep. 105.

L 5

† Mu.

† Mu. Thou fool, always beware of this speech from thy husband.

CL. What speech? Mu. Out of doors, wife.

The method of the wife's divorcing herself from her husband was in effect the same, as may be seen in the passages just now quoted. But at Athens she was to appear before the Archon, and declare her reasons for it. This may be proved from the following story in Plutarch.

† Mu. Inſipiens, ſemper tu huic verbo vitato

Abs tuo viro. CL. Cui verbo? MA. Foras, mulier.

PLAUT. *Casina*. ii. 2.

Hip-

* Hipparete, the wife of Alcibiades, a woman modest in herself, and fond of her husband, but grieved, that during their marriage, he kept company with lewd women, both strangers and citizens, departed out of his house, and lived with her brother. Alcibiades not heeding it, but still indulging himself, she was obliged to lay writings

* Plat. in Alcibiade. Ἐυτακτος δ' ἑσᾶ
 καὶ φίλανδρος ἡ Ἰωπαρέτη λυπουμενή
 δ' ὑπ' αὐτῆς περὶ τον γάμον ἐταίραις
 ξέναις καὶ αἰσῶν συνόντος, ἐκ τῆς οἰκίας
 ἀπίστωσα, πρὸς τον ἀδελφὸν ὤχετο. Τῇ
 δ' Ἀλκιβιάδου μὴ φροντίζοντος, ἀλλὰ
 τρυφῶντος, ἐδῆτο τῆς ἀπολείψεως γράμ-
 ματα παρὰ τῷ ἄρχοντι δέδαι, μὴ δὲ
 ἐτέρων, ἀλλ' αὐτὴν παρῶσαν.

of divorce before the Archon, not by proxy, but by herself in person.

The remainder of this story (though not altogether to my present purpose) is so entertaining that I cannot forbear reciting it.

* While therefore she appeared going to do this, according to law, Alcibiades came upon her, and snatching her up, went away, and brought her home through the fo-

* Ib. Ως οὖν παρῆν τὸντο πράξουσα κατὰ τὸν νόμον, ἐπεξελθὼν ὁ Ἀλκιβιάδης, καὶ συναρπάσας αὐτήν, ἀπῆλθεν δι' ἀγορᾶς οἰκάδε κομίζων, μηδεὶς ἐναντιωδῆναι, μηδ' ἀφελεῖσθαι τολμήσαντος. ἔμεινέ μιντοὶ παρ' αὐτῷ μέχρι τελευτῆς.

rum,

rum, no one daring to oppose him, or to take her from him : and she continued with him till her death. For we may suppose this act of violence was very pleasing to her: it being a testimony, that notwithstanding his former infidelity, she was not so indifferent to him, as she had imagined.

SECTION IV.

A Family Act.

FROM what has been advanced hitherto, it is plain that divorce was formerly an act done by the husband, and not by the magistrate :

gistrate ; which I think was hardly agreeable to sound policy. For it was making the same person both judge and party, in a cause of the utmost importance, not only to families, but even to the state. A state is one great family made up of many small ones : if these, by frequent and improper divorces, be dissolved, that must necessarily be weakened. Therefore it is fit the public should take cognizance of divorces, if it were only that the public may receive no detriment.

The pretence of private divorce, was, I suppose, that the vices, follies, blemishes, and infirmities of the parties concerned might not
be

be exposed by licentious tongues in a court of justice; and that it was a kindness done to the divorced to have them hidden from the world. But what is the being even justly exposed to the being wrongfully turned out of doors? Not to mention that the world is apt to think worse of any thing if it be hidden, than it appears to be if it be discovered. A public trial often clears up a good character when under a cloud, and seldom represents a bad one worse than it deserves.

Though divorce was in a manner arbitrary, yet in most cases a woman divorced might sue for her alimony,

alimony, if refused her by her husband. * “ Romulus allowed a man to cast off his wife for poisoning his children ; or for counterfeiting his keys ; or for committing adultery : but if he put her away for any other cause, a part of his substance was to be given her.”

* Plutarch. in Romulo. Γυνᾱίκα δ' ἐ
 διδὼς ἐκβαλεῖν ἐπὶ φαρμακείᾳ τέκνων,
 ἢ κλειδῶν ὑποβολῇ, ἢ μοιχευθεῖσαν,
 εἰ δ' ἄλλως τις ἀποπέμψαιτο, τῆς ἐσίας
 αὐτῆ το μὲν τῆς γυναικὸς εἶναι.

SECTION V.

Its frequency.

DIVORCE, like Adultery, was at the beginning of the Roman People very uncommon. We are assur'd by many, that till about five hundred years after Rome was built, no man presum'd to divorce his wife, nor woman her husband. But when once an example of it was introduced, then it rushed in like a torrent. For afterwards Divorces were so frequent, not only of men, but even of women, that sometimes they would have a husband for

for a few days, and then marry another. I have the testimony both of Juvenal and Martial to prove this assertion. So Juvenal ;

* " Thus the She-tyrant reigns, till pleas'd
with change,

Her wild affections to new empires range :

Another Subject-husband she desires,

Divorc'd from him she to the first retires,

* Imperat ergo viro : sed mox hæc regna relinquit,

Permutatque domos, et flammea conterit : inde

Avolat, et sprete repetit vestigia lecti.

Ornatas paulò ante fores, pendentia linquit

Vela domûs, et adhuc virides in limine ramos,

Sic crescit numerus ; sic fiunt octo mariti

Quinque per autumnos.

Juv. Sat. vi. v. 223.

While

While the last Wedding-feast is scarcely o'er,
And garlands hang yet green upon the door.
So still the reck'ning rises ; and appears
In total sum eight husbands in five years."

DRYDEN.

And so Martial ;

* " Faustinus, since the Julian Act reviv'd ;
And Modesty by law in houses liv'd ;
Within the space of thirty days were led
Ten husbands gay to Thelesina's bed.

* Julia lex populis, ex quo, Faustine, renata est,

Atque intrare domos jussa Pudicitia est,

Aut minus, aut certe non plus, tricesima lux est,

Et nubit decimo jam Thelesina viro.

Quæ nubit toties, non nubit, adultera lege est ;

Offendor mæcha simpliciore minus.

MART. vi. Ep. 7.

So

So oft who marries, marries not at all ;
 A legal Prostitute we her may call :
 For of a Prostitute she leads the life ;
 A decent whore is chaste to such a wife.

That which render'd this practice more general, was the Example of the Ladies of condition at Rome, and drew this severe Satire upon the Sex. “ * Does any woman now blush at a Divorce, when some illustrious and

* Senec. de Benef. iii. c. 16. Nunquid jam ulla repudio erubescit, postquam illustres quædam ac nobiles fœminæ, non consulum numero sed maritorum annos suos computant ? et exeunt matrimonij causâ, nubunt repudij ?

noble

noble women compute their own years not by the number of Consuls, but of their husbands? and divorce themselves for the sake of marriage; and marry for the sake of divorce?

Nor were the men of superior rank at Rome less faulty in this particular. For instance, * Caligula not only made a shameful practice of divorcing his own wives, but through a plenitude of power

* Suet. Calig. xxv. Matrimonia contraxerit turpius, an dimiserit, an tenuerit, non est facile discernere.

† “sent a divorce to some in the name of their absent husbands, and order’d it to be publickly recorded.”

It was by no means to the honour of Mæcenas that he was taxed with divorcing the same wife three times, and three times taking her back again. Insomuch, that Seneca writing to Lucilius said by way of hyperbole ; ‡ *Don’t*

† Ibid. xxxvi. Quibusdam absentium maritorum nomine repudium ipse misit, jussitque in Acta referri.

‡ Senec. ad Lucil. Epist. Non tibi occurret, Hunc esse, qui uxorem milles duxit, cum unam habuerit ?

you remember this is He who married a thousand times, when he had but one wife?"

SECTION VI.

Its Causes.

IF we take even but a slight view of the causes of divorce, we shall no longer wonder at its frequency.

The Jews put away their wives
 || *for every cause*, and grounded
 this

|| Mat. xix. 3.

this practice § upon a saying of Moses to that purpose. But Christ, the best Interpreter of the Sayings of Moses, alledg'd that this was not a law but a sufferance. * *Moses suffer'd them to put away their wives: and that because of the hardness of their hearts; viz. they were in their nature so cruel, that if they were not suffer'd to put away their wives, they would use them ill, and sometimes even kill them out of vexation, for being confin'd to them against whom they had taken a dislike. This sufferance there-*

§ Deut. xxiv. 1.

* Mat. xix. 8. &c.

fore

not a positive law. Then he referred them to the original Contract, intimating that *from the beginning it was not so*; and that in conscience they ought not to put away their wives *except it were for fornication*.

SECTION VII.

Barrenness.

† **S**PURIUS Carvilius, whose Surname was Ruga, a Nobleman, was the first upon record at

† Aul. Gell. Noct. Att. iv. c. 3. Spu-

M

rius

at Rome for divorcing his wife. He did it because through some bodily infirmity no children were born of her. He is said to have loved her exceedingly, and to have held her most dear on account of the sweetness of her manners,

rius Carvilius cui Ruga cognomentum fuit, vir nobilis, divortium cum uxore fecit; quia liberi ex ea, corporis vitio, non gignerentur, anno urbis conditæ 1077, M. Attilio P. Valerio Cofs. atque is Carvilius traditur uxorem, quam dimisit, egregiè dilexisse, carissimamque morum ejus gratia habuisse; sed jusjurandi religionem animo atque amoris prævertisse; quod jurare a censoribus coactus erat uxorem se liberum quærendorum gratia habiturum.

but

but to have given his oath the preference to his love and esteem of her : for he had been obliged by the Censors to swear that it was for the sake of having children, he took a wife.” But this over-scrupulousness could not clear him : for * “ Though he seem’d to act from a specious motive, yet he did not escape censure. For men judg’d that even a desire of children ought not to be set before conjugal fidelity.

* Val. Max. ii. c. i. § 4. Quamquam tolerabili ratione motus videbatur, reprehensione tamen non caruit : qui nec cupiditatem quidem liberorum conjugali fidei præponi debuisse arbitrabantur.

Indeed it was somewhat unnatural in him to turn away his beloved wife for such a cause. It was not her fault she bore no children, but her misfortune. Perhaps it was his fault as much as, or more than it was her's.— Perhaps it was not the fault of either of them—Nay perhaps, had he patience, she might have borne him children before she was past child-bearing. But let us suppose, that through some bodily infirmity contracted after marriage, she never could have borne any, yet as the having children ought not to be the only end of marriage, the want of them alone

was

was not a sufficient cause of divorce.

SECTION VIII.

Moroseness.

NEITHER was moroseness a sufficient cause. It was not therefore wisely said of the Emperor Adrian, * “That he would have divorced his wife Sabina as a morose and surly woman, had he been a private man.”

* Alian. Spartian. Var. i 102. Uxorem [Sabinam] ut morosam et asperam dimissurus, ut ipse dixit, si privatus fuisset.

For even if a wife's moroseness were not at all owing to misbehaviour in the husband; or if she had no good qualities to counterbalance this evil one; yet it is in itself too light a cause of so harsh a proceeding as the casting off a woman for ever, who for his sake had left her friends and relations, and put herself under his protection.

* "The saying of Varro was much wiser, which he utter'd in his
Satire

* Aul. Gell. Noct. Att. 1. 17. Varro in Satyra Menippea, quum de officio mariti scripsit, Vitium, inquit, uxoris,
aut

Satire Menippea, when he wrote on the duty of a husband ; *The fault of a wife*, said he, *is either to be remov'd, or borne with. He who removes the fault, renders his wife more easy to him ; he who bears with it, renders himself the better."*

What Varro taught, Socrates practised. † "He had, by report,

as

aut tollendum aut ferendum est : qui tollit vitium, uxorem commodiorem præstat ; qui fert, sese meliorem facit.

† Ibid. Xantippe Socratis Philosophi uxor morosa admodum fuisse fertur. Alcibiades interrogavit Socra-

as morose a wife as a man could have. Yet when Alcibiades asked him the reason why he did not put away such a crabbed wife, he answer'd, *While I bear with her at home, I keep myself in exercise, that I may the more easily bear with others abroad.*"

tem, quænam ratio esset, cur mulierem tam acerbam domo non exigeret; *Quoniam*, inquit Socrates, *quum illam domestalem perpetior, insuesco et exerceor, ut ceterorum quoque foris petulantium et injuriam facilius feram.*

S E C.

in p
gari

SECTION IX.

Other lighter causes.

IT would be tedious to dwell on every cause of divorce. I shall therefore mention but two or three more of the lighter sort, to shew the extravagant humour of ancient times in regard to divorces.

Thus * “Quinctus Antistius divorc’d his Wife, because he saw her whispering in a public place with a common Freed-woman.”

* Val. Max. vi. 3. 11.—Quod illam in publico cum quadam libertina vulgari secreto loquentem viderat.

And * Publius Sempronius divorc'd
his, for nothing but because she
ventur'd to appear at a public di-
version without his knowledge."

† "But horrid was the matri-

* Ib. 12.—Nihil aliud quam, se ig-
norante, ludos ausam spectare.

† Ib. 10. Horridam C. Sulpitij
Galli maritalē supercilium. Nam ux-
orem dimisit, quod eam capite aperto
foris versatam cognoverat; abscissa
sententia, sed tamen aliqua ratione mu-
nita. *Lex enim, inquit, tibi meos tan-
tum præfinit oculos, quibus formam tuam
approbes. His decoris instrumenta com-
para; his esto speciosa; horum te cer-
tiori crede notitiæ. Ulterior tui con-
spectus supervacua irritatione accersitus
in superstitione et crimine subhæreat ne-
cesse est.*

monial

monial superciliousness of Caius Sulpitius Gallus. For he divorc'd his wife because he understood she was abroad with her head uncover'd. An abrupt sentence, and yet supported by some shadow of reasoning. *For the law, said he, has prescrib'd you mine eyes alone to which you may recommend your person. Against these plant your engines of beauty; to these be amiable; to their safer notice trust yourself. A farther sight of you drawn by a superfluous coquetry must needs end in suspicion and guilt."*

One should think these men sought an occasion to divorce their wives; and wanted not to reform

but to get rid of them. At least they usurp'd a power which they ought not to have. For it is not reasonable to suppose a woman free by nature would enter into an agreement with a man for life, which he may break at his pleasure.

S E C T I O N X.

Adultery.

BUT it was allowed on all hands, that Adultery was a justifiable cause of Divorce. * The

* Plutarch. in Romulo.

fore-

forequoted law of Romulus suffer'd a man to divorce his wife for the crime of Adultery.* "Nay we read that Julia the wife of Tiberius, being found guilty of adultery, was divorc'd from him by the authority of Augustus [her father.]"

Even a suspicion of Adultery was thought by some a sufficient cause of Divorce. ‡ "Julius Cæsar divorc'd

* Suet. Tib. c. xi. Comperit deinde Juliam uxorem ob libidines atque adulteria damnatam repudium ei suo nomine ex auctoritate Augusti remissum.

‡ Suet. Jul. Cæsar. c. 6. Pompejam duxit

divorc'd his wife Pompeja, suspecting her to have committed adultery with Publius Clodius ; of whom there was so firm a report, that he had made his way to her, in a woman's apparel, amid some religious ceremonies, that the Senate decreed an Inquisition should be made concerning the pollution of things sacred." * Yet

" Julius

duxit Q. Pompeij filiam, Syllænep-tem : cum qua deinde divortium fecit, adulteratam opinatus a P. Clodio, quem inter publicas ceremonias penetrâsse ad eam muliebri veste tam constans fama erat, ut Senatus questionem de pollutis sacris decreverit.

* Suet. Jul. Cæs. c. 74. Testis citatus,

“Jullus being cited as an evidence, denied he had discover'd any thing, though both his mother Aurelia, and his sister Julia, had related all upon their credit before the same Judges : and being asked, why then had he put away his wife, *Because*, said he, *I think those who belong to me ought to be clear of suspicion as well as of guilt.*”

However privileg'd a Cæsar

tatus, negavit se quidquam compe-
risset : quamvis et Mater Aurelia, et
soror Julia, apud eosdem judices, omnia
ex fide retulissent. Interrogatusque cur
igitur repudiasset uxorem, *Quoniam*,
inquit, *meos tam suspitione quam crimine*
judico carere oportere.

might

might have been, yet such a power as this of divorcing upon suspicion seems too great to be put into the hands of a single man, or even of a court of Judicature: since we have no * water of jealousy among us, to try women's chastity, and the Trial Ordeal has been long since abolish'd.

SECTION XI.

Attempts to check Divorces.

TO do the Magistrates of old justice, they took some pains to check the too exorbitant prac-

* Num. vi. 12, &c.

tice of divorces. We are told in general, that * “when Augustus found that by the frequent changing of marriages, the force of his law concerning them was evaded, he set bounds to divorcements.” And in particular, that † “Marcus Valerius Maximus, and Caius Junius

* Suet. Aug. xxxiv. Cum jam matrimoniorum crebra mutatione vim legis eludi sentiret, divortijs modum imposuit.

† Val. Max. ii. c. 9. § 2. M. Valerius Maximus, et C. Junius Bubulcus Brutus censores L. Antonium fenatu moverunt: quod quam virginem in matrimonium duxerat, repudiasset, nullo amicorum in consilium adhibito.

At

nus Bubulcus Brutus, Censors, expell'd Lucius Antonius from the Senate, because he had divorc'd a Virgin whom he had married, without calling any of his friends to a consultation about it. I don't know [says my author] if this fault be not greater than the foregoing [Celibacy,] for by that the sacred rites of marriages are only flighted : by this they are abus'd."

In opposition (as it were) to this proceeding, was that of Domi-

At hoc crimen nescio an superiore majus, illo namque conjugalia sacra spre-
ta tantum, hoc etiam injuriosè tractata
sunt.

tian.

tian. * “For he struck out of the list of the Judges a Roman Knight, for taking back his wife whom he had divorc’d, having charg’d her with adultery.” This was rather cruel: for though it might prevent in some measure the rashness of divorce, since after it the wife was irrecoverable; yet it might encourage in men implacability, a principle ill-becoming a human being, who is himself so liable to do wrong. Nay sometimes the very husband might have

* Suet. Domitian. viii. Equitem Romanum ob reductam in matrimonium uxorem, cui dimissæ adulterij crimen intenderat, erasit judicum albo.

been

been greatly injur'd by such proceeding. It is said that * "M. Lepidus pined away, because he could not bear the loss of his wife Apuleja after a divorce."

And to shew how easy it is to judge, but how hard to practise, † "The same Emperor divorc'd his wife Domitia, that was def-

* Alex. ab Alex. iv. c. 8. M. Lepidus quod Apuleiæ uxoris desiderium post divortium ferre nequiret, morbo extabuit.

† Suet. Domitian iii. Uxorem suam Domitiam Paridis histrionis amore perditam, repudiavit: intraque breve tempus, impatiens dissidij, quasi efflagitante populo, reduxit.

player :

perately in love with Paris a Stage-player : and within a short time, impatient of the separation, brought her back again, as if the people earnestly wish'd for it."

I am sensible there are other weighty causes of divorce alledg'd by Casuists besides Adultery. But as I design'd at first to treat of this article historically rather than casuistically, I shall leave the discussion of them to far better judges than myself, viz. the learned professors of the law.

SECTION XII.

From bed and board.

BUT before I make an end of this chapter, I shall offer a word or two about that kind of divorce which is called a Divorce * *from bed and board*. This is not a total dissolution of the Marriage-bond, but such a separation of Man and Wife as quits them of the obligation of cohabiting together, and yet forbids them to cohabit with any other; and which is granted in many cases besides that of adultery. I could wish that either

* A mensâ et thoro.

of them being about to sue for this kind of divorce would consider beforehand the inconveniences that may arise from it. The characters of both may be expos'd to the censure of the world, which commonly lays the blame on both, and even more than they really deserve.—Their children (if there be any) may be depriv'd of their joint care and attention, which might have been little enough, especially in that important article their education—The family estate may suffer for want of their mutual œconomy in their several offices—The breach, which perhaps was intended to be healed up by their absence from each other for

a while,

a while, may rather grow wider and wider—They may both lay under no small temptation of changing the marriage-bed for a sinful commerce with others—or the innocent may be injur'd as well as the guilty, as not enjoying either the pleasure of a married, or the liberty of a single life.

CON-

CONCLUSION.

WE have seen in the foregoing pages the miserable train of consequences that have followed the practice of Adultery. History, both ancient and modern, sacred and profane, have furnished us with examples to prove that it has disgraced, ruined, and destroyed individuals; broke up families; dethroned kings; subverted empires; and laid desolate whole countries. From the variety and severity of the punishments inflicted on offenders, we may perceive the abhorrence it was held in through

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all civilized states. We had once in our own nation more powers to suppress it than we have at present. The ecclesiastical courts could restrain many immoralities ; but their influence has been eclipsed by the interposition of the courts of common law : insomuch that they are become little more than the shadows of justice. The statute laws against immoralities have lost their edge, which has been blunted by informations, laid by law and hungry evidence, for the sake of the reward only ; by which means informers are looked upon as infamous, and rendered in a manner useless. So that now there is a necessary call upon mankind to exert

ert their united endeavours to check the bare-faced impudence of vice; to crush the numerous public assemblies, places too often formed for intrigues and assignations; to dash gaming out of countenance; in short to drive away that dissipation which reigns so much in families.

Possessed with the spirit of dissipation a wife is busy, but has nothing to do;—is in a hurry to go, but knows not where;—is not afraid of any thing so much as the being left alone; her mornings are thrown away at the mercers, milliners, and mantua-makers;—her evenings are taken up at the play-

house or card-parties ;—her nights are consumed at the Coterie ;—her mind is left unguarded ; temptations slide into it ; and she falls a prey to some inveigling sharper, and is then forced to repair her losses by the exposure of her chastity.

A husband too, when under the same influence, is no less to be censured. He is more daring in his vices, and more abandoned. — He despises the reproach of the world, which is the highest mark of profligacy.—He forgets the solemn vow made at the altar, and gives God the lie, which he would not take from man.

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In a word, while the husband is immersed in the follies, vices, and extravagancies of the fashionable world, what is become of the natural justice due to his children? While the wife is absorbed in a round of giddy and guilty amusements, what is become of the tenderness of a mother's heart? And what is to become of the growing generation, whose minds have not been formed by the wise instructions, or good examples of Parents?

These pleasures of both the sexes, gay as they are, bring on serious evils. Domestic happiness is no more—the affections of the

married pair are expired — their tempers grow sour — wranglings make up their conversations — which are soon followed by bursts of passion, disgust, and hatred. These are the odious scenes to be viewed in a house thus miserably divided against itself. If jealousy steps in, doubts of legitimacy will ensue: and the man who doubts the legitimacy of his children, will be inattentive to their wants, and negligent of their improvements. Now if these be the consequences arising from a doubt, what must arise from a certainty of the fact? Nothing but law-suits, divorces, or assassinations.

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It must be confest that the men of intrigue are usually the primary cause of married women's decline from virtue, and deserve a punishment that may render them incapable of committing again the same offence. By impudence and importunity they take advantage of their weakness and flexibility. However, both the offending Parties seem to forget what may one day or another be dreadfully recollected on their death-beds, that *whoremongers and adulterers God will judge.*

In the mean while, and till the legislature shall think it proper to

assign a punishment equal to the crime of adultery, were there a law in force that prohibited an adulterer and adulteress ever to marry together after conviction, it might be a mean of preventing frequent adulteries : for adulteries are often committed with a view of after-marriage. What makes a former intrigue of this sort the more suspected is the hasty marriage entered into upon a woman's separation from her first husband, either by death or divorce. Martial, in the two following epigrams, insinuates, that such a marriage is a tacit confession of an intrigue which was carried on before; as,

To

* To Paulla i. Ep. 74.

He was your spark ; yet you deny'd it then ;
He's now your spouse ; can you deny't again ?

† On Proculina. vi. Ep. 22.

Since him you marry, who but just before,
Your husband living, was your paramour,
To 'scape the censure of the Julian act ;
You do not marry, but confess the fact.

* Ad Paullam. i. Ep. 74.

Mæchus erat ; poteras tamen hoc tu, Paulla, negare :

Ecce vir est ; nunquid, Paulla, negare potes ?

† In Proculinam. vi. Ep. 22.

Quod nobis, Proculina, concubino,

Et mæchum modo, nunc facis maritum,

Ne lex Julia te notare possit ;

Non nobis, Proculina, sed fateris.

I may say farther, such a law might prevent frequent murders. For the rage of lust in the one, and the force of self-interest in the other, will sometimes urge them to stick at nothing that may remove the obstacle which hinders them from coming nearer together.

It may be objected indeed that laws should never be made which may throw any difficulties in the way to marriage. Because such laws must obstruct population, and counteract one of the first principles of government, viz. That the strength of a nation consists in the number of its people. This

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is true if its people were born of honest and industrious parents, and were honestly and industriously brought up. But what good to a nation can be expected from the issue of two such profligates? Nor would population be much obstructed by such a law: for still the Adulterer might marry another woman, and the Adulteress another man.

It may be answer'd, such might be their attachment, that they would marry no other; and if forbidden to marry together, would live together in fornication, to the scandal of the place where they dwelt.

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It may be answer'd again, If it were so, there are, or ought to be, laws to punish them for so doing. But how great a scandal to any place must be a connection begun with adultery, and compleated with marriage ! This, surely, is, if not the continuation, yet the triumph of adultery ; since both the offenders have obtain'd what perhaps they principally aimed at.

It may be replied, That by marrying together, they would remove the scandal they had given : because through a regular life for the future, they would signify a detesta-

detestation of their former irregularity.

This is very unlikely. It is more likely they would increase the scandal. For most commonly the person who has been false to one bed, will in time, from the same inconstancy or lasciviousness, be false to another. They would give a much better proof of their repentance by lamenting apart their former irregularity, than by enjoying the fruits of it together.

But it may be asked, Would not such a law contradict the nature and design of a divorce, which implies not only a separation of
man

man and wife, but also a liberty of marrying another ?

It may be answer'd, Divorce does not imply a liberty of marrying any other. There are several persons forbidden to marry together : and these ought to be added to the number. In the case of Adultery, there is to be consider'd a punishment of offenders, as well as a separation of man and wife : but to allow such offenders to marry together is to reward, not to punish them.

It may be farther urged, It is probable that after a divorce the
former

former husband will be indifferent about the children who were born since the commencement of the adultery, suspecting them not to be his; and the Adulterer will be fond of them, supposing them to be his, especially if they bear some resemblance of him. It might therefore be proper, the Adulterer and Adulterers should be allowed to marry together for the sake of those children.

To this it may be answer'd, It would by no means be proper they should have any thing to do with those children; especially if they be females, lest the daughters should

should learn to be like the mother. Nay they ought to be wholly kept from them as a punishment for bringing them into the world through such unlawful means. Whereas the putting them into the hands of these persons, would be the completion of their wishes. In the mean while the law does, or easily may provide against the neglect of the children from the indifference of the former husband.

The occasion of my pursuing this argument so closely, is the fight of a * bill which was past

* Vide Appendix.

last sessions in the House of Lords, but not in the House of Commons. I have not been able to learn the reasons given for passing or not passing it in either house; and am therefore obliged to trust to my own reasoning on the subject: which, if it shall appear to my readers weak and groundless, I hope they will excuse, on account of my zeal for that state upon which a double affront has been lately put, first in breaking, then in profaning its *sacred bands*.

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APPENDIX.

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Adultery, from marriage, or con-
tracting Marriage, with the
Party who is already married.
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~~tracting Marriage, with the~~
~~Party who is already married.~~
criminal intercourse, and to de-
clare the effect of such Marriage
incapable of inheriting.

WHEREAS the penin-
sion any Person, after be-
ing divorced for the Crime of
Adultery.

APPENDIX.

A B I L L,

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An Act to restrain Persons who shall be divorced for the Crime of Adultery, from marrying, or contracting Matrimony, with the Party with whom they have been proved to have carried on such criminal Intercourse; and to declare the Issue of such Marriages incapable of inheriting.

WHEREAS the permitting any Person, after being divorced for the Crime of Adultery,

Adultery, to marry or contract Matrimony with the Person with whom he or she shall be proved to have had such criminal Intercourse, may tend to the Encouragement of Vice and Immorality, and be productive of many and great Inconveniencies : For Remedy thereof, be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the First Day of *May* next, it shall not be lawful for any Person who shall hereafter be divorced by Act of Parliament, for the said Crime

of Adultery, to marry or contract Marriage with the offending Party, with whom such Adultery, upon which the said Divorce was had and obtained, shall be proved to have been committed; but that all such Marriages shall be deemed unlawful, and absolutely null and void, to all Intents and Purposes whatsoever.

And be it further enacted by the Authority aforesaid, That all Children who shall hereafter be born in such unlawful Wedlock, shall be, and they are hereby declared to be, Bastards, and incapable of inheriting.

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